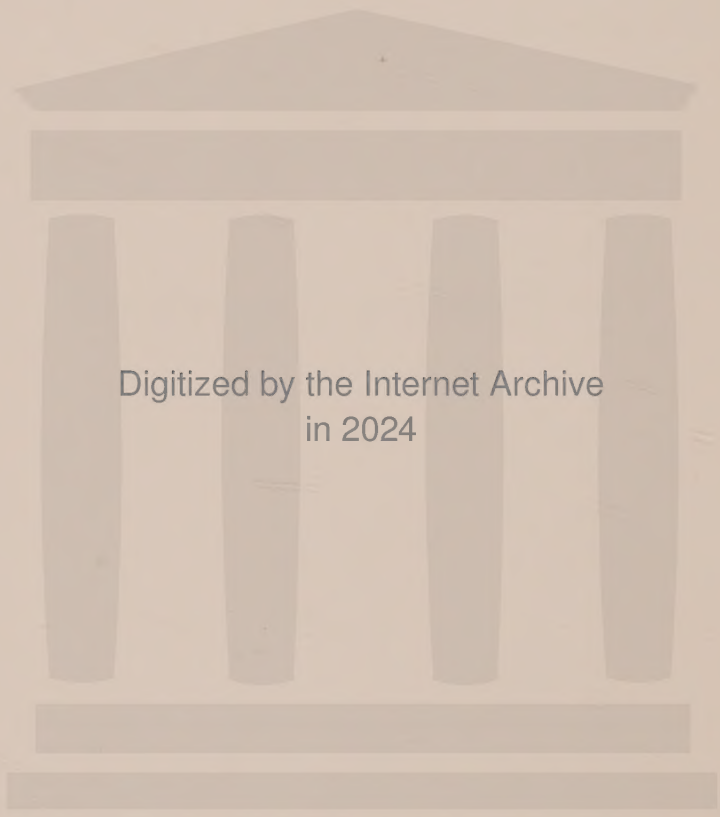
Fifteenth Amendment

An Account of Its Enactment

A. CAPERTON BRAXTON

The Fifteenth Amendment



A. Caperton Braxton

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Address Delivered Before Virginia State Bar Association for the Year 1903

A. CAPERTON BRAXTON
OF STAUNTON, VIRGINIA

For a Sketch of the Author See Bar Association Report, Vol. XXVII, p. 54

Foreword by WYNDHAM R. MEREDITH of the Richmond Bar

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FOREWORD

THE accompanying article was originally delivered at Hot Springs, Virginia, in 1903 before the Virginia State Bar Association. As president of the Bar Association, Mr. Braxton delivered in 1907 an equally interesting and informative paper on the "Eleventh Amendment." This treatise on the "Fifteenth Amendment" has been republished several times, and it has been in such great demand as to exhaust these reprints. In response to continuing requests for the article, his widow has decided to have it again reprinted. Also, some who have perused the article have expressed a desire to learn more of the author of so unique a contribution to the constitutional history of the times.

The present brochure is a striking example of the author's methods of work, showing an intimate and detailed knowledge of documents and authorities, exact and minute investigation which makes his judgment appear as the culmination of such weighty evidence that it seems to speak for itself. Its production is the result of personal qualifications, diverse strains of hereditary influence and outward circumstances that formed the mental and physical make-up of a seeker after truth—one who scorned all forms of evasion or equivocation.

This paper is concerned with a period more than usually marked by the ever-fluctuating welter of human passions, political maneuvering and sectional intrigue, characterized "by the crimes of majorities and the fury of uncontrolled democracy." Upon this bewildering tumult Mr. Braxton brought to bear the same austere love of truth, the same resolve to dig to the bedrock of fact, exhausting all sources of possible illumination, the same breadth of view and intensity of inquiring ardor, as is said to have marked the work of England's most learned historian.

Like that same great student, Braxton could not be deemed a Radical, but like Lord Acton, his ideal in the political world was to secure *suum cuique* to every individual or association and to prevent any institution, however just or useful its aims, from acquiring more.

This is well illustrated by his unanswerable defense of the article in the Virginia Constitution of 1901-02 "Concerning Corporations," of which he was the author. A short extract will prove this assertion:

"The hope of all the people of the Commonwealth who want economic reform, all those who have still coursing in their veins that old love of liberty that revolts at the idea of absolute power in the hands of anybody, be he the railroad king or anybody else, those people whose natural Anglo-Saxon instinct teaches them to love the rule of law and not of arbitrary will, are looking to us for salvation."

Allen Caperton Braxton was born February 6, 1862, at Union, Monroe County, in what is now West Virginia, and where his family was temporarily sojourning. His early life, however, was spent at "Chericoke" in King William County in this State. He was the son of Dr. Tomlin Braxton and Mary Caperton Braxton. His mother was the daughter of Allen T. Caperton, United States Senator from West Virginia, and through his father's family he was a direct descendant of Carter Braxton, a sound thinker and patriot and one of the signers of the Declaration of Independence. His wife was Mary Patterson Miller, of "Eastwood," Staunton, Virginia.

Young Braxton grew up in the healthy, vigorous atmosphere of a refined, yet simple, country home, and in the pursuits of a Virginia country boy acquired that strength of body and clarity of mind which gave promise of a long life, and which, as it was, enabled him to stand

with fortitude and bear with indisputable courage the burdens and discouragements which soon shadowed, though they never darkened, the years of his early manhood.

His education was obtained at Pampatike Academy in the same county, one of the best classical schools of that day. One of his teachers, John Pickrell, Esq., was his lifelong friend and subsequent associate in much important litigation.

His father, who had been in ill health for several years, died in 1892, when Braxton was thirty years of age. However, in order to help in the support of the family he was compelled to leave school at the age of seventeen. He met this responsibility with the same calm and unflinching courage with which he met every demand of life. Indeed, it served him the good purpose of steadying a very intense nature and gave toughness to qualities which needed just such a field to bring forth their best fruit. For the sake of his people, there was no task to which Braxton ever hesitated to turn. However humble the task his inexhaustible energy and labor gave dignity to it. He taught school, was a bookkeeper and a civil engineer. He worked upon a railroad as a brakeman. It is interesting in this connection to note that later on he became general counsel of the Richmond, Fredericksburg and Potomac Railroad.

His spare time was devoted to the study of his future profession, which was pursued in the office of a personal friend. Attendance upon a summer course of lectures at the University of Virginia under that eminent teacher, John B. Minor, was his only opportunity for legal instruction.

It was in this hard school that young Braxton acquired his sound training in the fundamental principles of the law.

In 1883, in the City of Staunton, Virginia, he began the practice of his profession. The Staunton Bar at that time had a number of legal luminaries, the equal of any in this State. Success, however, attended Braxton's efforts from the commencement of his practice, and he was elected Commonwealth's Attorney and City Attorney of Staunton for two terms.

These days of poverty and hardship only served to quicken his resolve to succeed. It affords a splendid lesson of perseverance and strenuous effort, undaunted by difficulties and undismayed by the vicissitudes of fortune, which would have broken the spirit and quenched the ambition of a less manly character.

But when the reward came, it came abundantly. A solid, but then local, reputation, as a student and thinker on the problems of constitutional law secured his election as a member from the City of Staunton and Augusta County to the Virginia Constitutional Convention of 1901-02. In that Convention, he was made Chairman of the Committee on Corporations and was also a member of the Committees on Judiciary and Final Revision. He at once established a reputation as an able debater and well informed publicist. His speech on the question of members taking the oath was characterized by reasoning, marshalling of facts and a wide range of argument that covered every point.

With the exception of some contributions to the Chapter in the Virginia Constitution regarding Cities and Towns, he confined his labors in the Convention to the three committees of which he was a member. His fame, however, rests chiefly upon the sections of the Constitution regarding corporations and their proper control. He was in the main the author of this chapter, and it supplies a monument more enduring and lasting than any material shaft. The attack upon the consti-

tutional provisions relating to corporations and the acts passed in pursuance thereof, furnished a brilliant opportunity for the display of his knowledge of fundamental principles and his political philosophy regarding the safeguarding of the rights of the people. It stands today the leading reform which that Convention accomplished. By putting the granting of charters and the creation of corporations in the hands of a Commission, it at once cleared the atmosphere of our legislative halls and removed therefrom the danger of malign influences which had previously threatened that body. It put a wise check upon corporate excesses without hampering the proper investment of capital. It taught transportation companies and other public service corporations that they must not disregard their public duties in their desire for private gain.

The reputation thus gained in the halls of the Virginia Convention resulted in a rapid increase in his practice and his retention as counsel in much important litigation. It was further enhanced by his contributions to the law magazines and especially his address before the Virginia State Bar Association on "The History of the Enactment of the Fifteenth Amendment."

It is interesting to recall some of the more important cases:

Prentis v. *Atlantic Coast Line Company,* 211 U. S. 210.
Commonwealth v. *R. F. & P. R. Co.,* 111 Va. 611, 231 U. S. 769.
Taylor v. *Commonwealth,* 101 Va. 829.
Norfolk & P. R. Co. v. *Commonwealth,* 103 Va. 289.
Winchester & C. R. Co., v. *Commonwealth,* 106 Va. 264.
Turner v. *Barraud,* 102 Va. 324.

Henrico v. *Richmond*, 106 Va. 282.
Carnegie Trust Co. v. *Security Life Ins. Co.*, 111 Va. 1.
Commonwealth v. *Wellford*, 114 Va. 372.
Dismal Swamp R. R. Co. v. *Roper Lumber Co.*, 114 Va. 537.
Lockwood v. *Moffett* (Ill.), 52 N. E. 260.

In these cases, he displayed the same qualities of untiring industry, exhaustless effort and sound thinking. "Great things are done by devotion to one idea." Braxton's one idea was the cause of his client and his devotion thereto enabled him to accomplish great things. The intensity of his nature displayed itself in litigation like a soldier fighting the battles of his country. The same rapt and exclusive absorption which marks others in moments of creative work, animated Caperton Braxton throughout a case, however long the litigation or dull the work. Everything was sacrificed to the cause of his client. Sleep, meals, exercise and every other physical duty were disregarded until he had mastered, in its most minute details, the facts and law of the case submitted to him. Nothing escaped him; and yet, whilst his mind covered every detail and his memory retained every fact, this mastery was not allowed to overshadow the general principles of the law on which he based his argument, and over which he had such a complete grasp.

The very intensity of his application was the main cause of the shortening of a life which originally gave promise of abundant years. Caperton Braxton was called to the great assize on the 22nd day of March, 1914, and in the fifty-third year of his age.

Wyndham R. Meredith.

Richmond, Virginia,
April 30, 1934.

The Fifteenth Amendment — An Account of its Enactment

By A. Caperton Braxton,
of Staunton, Virginia.

The origin of negro suffrage, as a practical thing in the United States, was the Act of January 8th, 1867, establishing it in the District of Columbia. Whatever, in the light of thirty-odd years' experimentation, may now be thought of its justice, wisdom, or beneficence, the fact is, that, until the political exigencies of the Reconstruction arose, unrestricted manhood suffrage for negroes was neither accepted, nor seriously considered, by the people, or leading men, of any State or party. The wisdom and justice of unrestricted negro enfranchisement is claimed by some to be axiomatic; but, nevertheless, there is not a single instance of its advocacy by even a substantial minority of the white population in any community where negroes were sufficiently numerous to make the measure more than a naked theory.

Of the thirty-four States forming the Union on January 1st, 1861, the constitutions of thirty of them excluded negroes from the franchise. Even in the four States of Vermont, New Hampshire, Massachusetts

and New York, where negroes were nominally granted suffrage, they practically cast no vote, either because scarcely any of that race resided there, or else, because they were excluded by educational or property qualifications. Of men over twenty years of age, in 1860, there were in New Hampshire, 91,954 whites and 149 negroes; in Vermont, 87,462 whites and 194 negroes; in Massachusetts, 339,085 whites and 2,512 negroes and, in New York, 1,027,305 whites and 12,989 negroes.[1] But, as each voter in Massachusetts was required to prepay his taxes and be able to read and write,[2] and each negro voter in New York was subject to a property qualification of $250.00, not applicable to the whites,[3] the result was that, in the entire United States, in 1860, there were only about 2,500 negro voters, not one of whom resided outside of New York or New England.[4] Even in New England, suffrage had never been expressly conferred upon negroes, but grew, merely by implication and construction, out of the broad language of their old constitutions. These constitutions (like those of several other States) were adopted at times when the idea of conferring suffrage upon negroes, as a race, had never yet entered the mind of man, and when free negroes were so scarce that they were no more contemplated by constitutional draftsmen than were Chinese or South Sea Islanders.

Later on the equally comprehensive suffrage laws of New Jersey, North Carolina and Tennessee, where the population of free negroes had become no longer negligible, were promptly reworded so as to admit only

1 See tables in speech of Roscoe Conklin in House of Representatives, January 22nd, 1866. *Globe*, p. 357.

2 Poore's Constitutions.

3 Idem.

4 Thorp's Const. History of the U. S., Vol. III., 226-'7.

white men;[4½] but, in New England, the members of that race continued so few that it was not thought worth while to amend a constitution either to exclude, or to admit, them. Thus the constitutions of Maine and Rhode Island remained as much unchanged after it was found that their language excluded negroes, as did those of Vermont, New Hampshire and Massachusetts after it transpired that their language admitted them to the suffrage.[5] In the Constitution of New York alone, of all the States up to 1868, was the negro expressly allowed to vote; but even there he was discriminated against by a heavy property qualification, not applicable to the whites, which excluded about ninety per cent. of the negro voters.[6]

Ignoring the enforced acquiescence of the Southern States during the Reconstruction period, impartial negro suffrage, when made an issue before the people, has never obtained a majority vote in a single State of the Union, save in Iowa and Minnesota, during the fall of 1868;[7] and, at the breaking out of the Civil War in 1861, it is believed that neither under the National, nor

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4½ As a sample of the careless wording of some of the suffrage clauses of the earlier Constitutions, that of New Jersey gave the franchise to "all inhabitants"—irrespective not only of race, but of sex—and under it white women and negro men and women actually voted, until it was corrected about 1807. See Poore's Constitutions, McPherson's History of the Reconstruction, p. 258, and an interesting article in the *New York Tribune* of April —, 1867.

5 The Constitutions of Maine and Rhode Island limited suffrage to "citizens of the United States." The Supreme Court of the United States in March, 1857, decided, in *Scott* v. *Sanford*, 19 How., 393, state that a free negro was not a citizen of the United States; but the suffrage clauses of these Constitutions were allowed to remain unchanged, although Rhode Island amended its Constitution in 1864 and Maine in 1865. See Poore's Constitutions. When the Fifteenth Amendment passed Congress, the Radicals thought Rhode Island would probably reject it. See *New York Tribune* of February 22nd, 1869, p. 1.

6 Thorp's Const. History of the United States, Vol. III., p. 227.

7 This statement ignores negro suffrage clauses in State Constitutions adopted since the existence of the Fifteenth Amendment, which left the people no choice in the matter.

any State, government, was there a single office, civil or military, filled by a negro in the United States.[8]

This aversion of the American people to negro suffrage and office holding, was almost as great as their hostility to negro slavery. From early Colonial times a large portion, if not a majority, of the white people of this country have been opposed, at least in theory, to negro slavery. A majority of the States always prohibited it, and the remainder were deterred from abolishing it only because of practical difficulties. But, up to the Reconstruction Act of March 2nd, 1867, the people of no single State had ever voted for impartial negro suffrage, nor had any party (including the Abolitionists themselves) ever declared for it in a national platform.[9] On the contrary, although in the decade immediately preceding 1867 no less than twenty-seven of the thirty-seven States then in the Union had amended their constitutions (many of them in respect of suffrage),[10] yet, in no single instance was the franchise extended to negroes; but, in every case where political equality for negroes had been suggested, it had been voted down by decisive majorities. It must, therefore, never be supposed that the sentiment *against* negro *slavery* was, by any means, a sentiment *in favor of* negro *suffrage*.

Even in some of the strongest anti-slavery States, so decided was the sentiment against negro suffrage that no greater reproach, nor more damaging charge, could be brought against a public man than that he favored political equality for negroes. As far back as 1836,

8 Thorp's Const. History of the U. S., Vol. III., p. 227.

9 Even, of the "Abolition Party," in 1840, the "Liberty Abolitionists," in 1844; the "Free Soilers," the "Abolitionists" and the "Liberty League," in 1848; the "Free Soil Democrats," in 1852 (whose National Convention elected Fred Douglas himself as secretary), and the "Radical Republicans," in 1864: not one of them advocated negro suffrage in their National Platforms. See McKee's National Platforms and the *New York Tribune* of August 12th, 1852.

10 Poore's Constitutions.

Abraham Lincoln was on record as opposed to negro suffrage;[11] and, in his memorable series of debates with Stephen A. Douglas in 1858, in order that his strong anti-slavery views might not expose him to the charge of favoring the heresy of negro suffrage, he repeatedly emphasized his condemnation of it. In his first "pitched battle," as he called it, with Judge Douglas, at Ottawa, Ohio, he said:

"I have no purpose to introduce political and social equality between the white and the black races. There is a physical difference between the two which, in my judgment, will probably forbid their ever living together upon the footing of perfect equality; and, inasmuch as it becomes a necessity that there must be a difference, I, as well as Judge Douglas, am in favor of the race to which I belong having the superior position. I have never said anything to the contrary; but I hold that, notwithstanding all this, there is no reason in the world why the negro is not entitled to all the natural rights enumerated in the Declaration of Independence—the right to life, liberty and the pursuit of happiness. I hold that he is as much entitled to these as the white man."

Again, and upon a subsequent occasion, referring to the same subject in a public speech, he said:

"I am not, nor ever have been, in favor of bringing about, in any way, the social and political equality of the white and black races; I am not, nor ever have been, in favor of making voters or jurors of negroes, nor of qualifying them to hold office or intermarry with the white people; and I will say, in addition, that there is a physical difference between the white and black races

11 In a letter to the editor of the *New Salem Journal*, in 1836, Lincoln declared himself in favor of female suffrage, but restricted his advocacy to the "white" race. See Lincoln's works, Vol. I., p. 7.

which I believe will ever forbid the two races living together on terms of social and political equality."

Notwithstanding these repeated denials, it seems that the editor of an Ohio paper, in September, 1859, charged that Mr. Lincoln was really "in favor of negro suffrage." But, in a speech shortly afterwards, at Columbus, Ohio, Mr. Lincoln indignantly denied the charges; he quoted from his former speeches on the subject; and, in conclusion, said:

"I did not say that I was in favor of negro suffrage; but * * * twice—one substantially and once expressly—I declared against it. * * * I presume the editor of that paper is an honest and truth-loving man, and that he will be greatly obliged to me for furnishing him, thus early, an opportunity to correct the misrepresentation he has made, before it has run so long that malicious people can call him a liar."[12]

These repeated declarations of Mr. Lincoln against negro suffrage were not only made in public speeches, but were published at the time in the newspapers far and wide; and, in the light of those views, of which he had never then indicated the slightest modification, he was nominated and elected President by the Republican party the next year. It was even claimed by the Republicans, at that time, that advocates of negro suffrage practically did not exist; and that the alleged favoring of it by their party was a baseless charge—a kind of bugaboo gotten up by the Democrats to scare off Republican voters. In fact, Mr. Lincoln declared in one of his speeches about that period, that he had never seen any one who was in favor of political equality for negroes.[13]

Such was the sentiment of the country when the Civil War broke out in 1861; and, with the possible exception

12 Lincoln and Douglas Debates, p. 364, et seq.
13 Idem., p. 365.

of New Hampshire, Vermont and Massachusetts, there can be no doubt that the advocates of impartial negro suffrage could not then have mustered a corporal's guard in a single State of the Union.

In the course, however, of the next decade, covering the period of the war and the Reconstruction, events transpired and conditions arose which made negro suffrage possible of accomplishment. The principal agencies which contributed to this result were: First, gratitude to the negro soldiers who had served in the Federal armies—to "save the Union," as it was said; second, apprehension lest the so-called "rebel element" regain control of the Federal Government; and, third, the desire to perpetuate the Republican party in power. Thus we have, as the inspiration for negro suffrage, gratitude, apprehension and politics—these three; but the greatest of these was politics.

In tracing the progress of negro suffrage in the United States, from the beginning of the Civil War up to the Adoption of the Fifteenth Amendment, little notice will be taken of the acts of the Confederate States. That the white people of those States were always unanimous in their opposition to negro suffrage, and that their final submission to it was *in invitum,* are facts too well known to bear contradiction, or even rehearsal. The Union States alone being free, from the close of the war till the proclamation of the Amendment, their acts only are worth considering, as expressive of public sentiment during that period.

The first opportunity after January 1st, 1861, which a negro suffrage sentiment may be said to have had for expression, was in the "Loyal" Convention which met at Jefferson City, Mo., on February 28th, 1861. This convention was composed of Unionists, and remained

in session, off and on, till July 1st, 1863.[14] It adopted numerous amendments to the State Constitution, but none looking to negro suffrage. On November 26th, 1861, at Wheeling, another "Loyal" Convention assembled to form the first constitution for the proposed new State of West Virginia, and to give expression to the anti-Confederate, anti-slavery, sentiments of the people. This convention adopted provisions abolishing negro slavery, as did the one in Missouri; but it, also, failed to suggest negro suffrage. During the next year, 1862, only Michigan amended its constitution, but no indication developed therein of the existence of any negro suffrage sentiment in that State either.

In the meantime, the valiant conduct and valuable services of the negroes in the Union Army, during the trying campaign of 1862, entirely removed the prejudices which many northern men had entertained against their employment as soldiers, and fully reconciled them to the propriety and expediency of the military measure of emancipation on January 1st, 1863. But when, in December, 1863, President Lincoln, by proclamation, unfolded his plan of reconstruction for the South, he expressly excluded negroes from participation in the elections for the proposed reconstruction conventions,[15] and expressly declared that the Federal Government would require nothing for the freed negroes except a recognition of their freedom, and a provision for their education—not a hint, nor suggestion, of their being, even ultimately, admitted to the franchise, is contained either in this proclamation or in his message to Congress on the same day, in which he reports, explains and defends it.[16]

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14 Poore's Constitutions.
15 Messages and papers of the Presidents, Vol. VI., p. 214.
16 Idem., p. 189.

While negro suffrage, at this time, was advocated by no party, and almost by no leading man outside of Massachusetts, Vermont and New Hampshire, yet it was now beginning, for the first time, to gather advocates here and there through the country, some of whom felt it was due, as a reward, to the negroes for their patriotic service in the army, and others, that it should be meted out as a punishment to the rebellious white men of the South, whom they denounced as traitors and hated with a fanatical venom, difficult now to appreciate.

A speech delivered by Mr. Sumner about two years later, at Worcester, Mass., fairly illustrates the sentiments of some of the earlier advocates of "negro suffrage for the South," who, about this time, began to make their voices occasionally heard. Mr. Sumner said:

"As those who fought against us should be for the present disfranchised, so those who fought for us should be at once enfranchised, and thus a renovated State will be built secure on an unfaltering and natural loyalty. For a while the freedman will take the place of the master, verifying the saying that the last shall be first, and the first shall be last. In the pious books of the East it is declared that the greatest mortification at the Day of Judgment will be when the faithful slave is carried into Paradise, and the wicked master sent to hell. * * * Therefore, in organizing this change, we follow Divine justice."[17]

While these sentiments had not, in the winter of 1863-'4, gained full sway, yet the suggestion of a limited and restricted negro suffrage in the South, was making itself felt in the minds of many Northern men. The idea of enfranchisement as a reward for military service

17 Speech delivered by Charles Sumner on September 14th, 1865, before the Republican State Convention at Worcester, Mass. See Sumner's Works, Vol. XII., p. 340.

was as old as the days of Rome, and was entirely familiar in America, where some of the States had acted upon it for years. Upon this well established principle the personal enfranchisement of worthy negro soldiers, as a reward for valiant military service, was reconciled to the minds of many persons, whose natures would have revolted no less strongly against the adoption of general, indiscriminate, negro suffrage, as a punitive measure against Southern white men, than they would have done at the suggestion of a general massacre. It was in response to this new sentiment favoring limited and occasional enfranchisement for exceptional individuals among the negroes that, on March 13th, 1864, Mr. Lincoln, who but two months previous had excluded negroes from the franchise in his plan of reconstruction, wrote, in a private letter to his military Governor of Louisiana, suggesting, with much misgiving, the experiment of granting suffrage to a few selected negroes. Said he:

"I barely suggest, for your private consideration, whether some of the colored people may not be let in; as, for instance, the very intelligent, and especially those who have fought so gallantly in our ranks."[18]

But neither Governor Hahn, nor the Reconstruction Convention which he assembled, saw fit to adopt this suggestion. In fact, negro suffrage, upon the political sky of 1864, was a cloud which cannot be said to have been even as large as a man's hand.

There was then lowering in the heavens, however, another cloud which had been gathering for some time, and was now much larger than a man's hand. This was the cloud of Radicalism, evolved out of the elements of bigotry and fanaticism, blown together by jealousy and

18 Lincoln's Works, Vol. II., p. 496.

distrust of Mr. Lincoln, and fraught with the thunders and consuming lightnings of that reconstruction tempest which, in a few years, was to break over and devastate the South. But, as yet, this Radical faction had not enough strength to be dangerous; it did not contain many men of national influence, and even that faction itself was not then fully inoculated with the venom of some of its more extreme leaders.

Congress, as a body, was still utterly opposed to negro suffrage. In April, 1864, jealous of the increasing prestige of Mr. Lincoln, some of the Radical leaders in Congress charged him with undue assumption of power, and that he was attempting, by his conciliatory plan of reconstruction, to capture the Southern vote for the advancement of his own political fortunes. Congress therefore undertook a reconstruction plan of its own—the beginning of that war which it afterwards waged so successfully against President Johnson.

What more suitable leaders could the Radicals have found for this movement than Henry Winter Davis in the House, and Benj. F. Wade in the Senate! These leaders, therefore, introduced, and took charge in their respective houses, of the first Congressional Reconstruction Act, and it was passed by the House on May 4th, and by the Senate on July 2nd, 1864.[19] Only because the plan of reconstruction provided by this bill excluded all others, did Mr. Lincoln decline to sign it, and it thus failed to become a law; but, for doing this, he was roundly abused by the widely published "Davis-Wade Manifesto" of August 5th, 1864.[20] This first Reconstruction Act of the Radicals may be relied on, however, as a fair expression of the party's views and the then sentiment of a Republican Congress on the question of negro

19 *Congressional Globe*, p. 3491.
20 *New York Tribune*, August 5th, 1864, p. 5.

suffrage for the South; but, when we look at its provisions, we see that, in prescribing the qualifications of voters in the rebel States, Congress had carefully followed the constitutions of twenty-seven out of the thirty-four States then existing, and expressly limited the franchise in the South to "white males of twenty-one years of age."

In thus limiting suffrage to white men, Congress, in 1864, did but voice the overwhelmingly dominant sentiment of the American people. That year was a "Presidential year"; Mr. Lincoln's successor was to be elected in the fall, and national conventions were being held which laid down the principles of their respective parties as platforms from which their candidates should solicit the suffrages of the people. Neither the Democratic, nor the regular Republican, platforms of that year made the slightest reference to negro suffrage.[21]

On May 31st, 1864, however, there met, at Cleveland, Ohio, a wing of the Republican party, which called themselves the "Radicals," adopted a national platform and nominated Gen. John C. Fremont, of California, for President, and Gen. John Cochrane, of New York, for Vice-President. This convention represented the most rabid and fanatical abolitionists and South-haters in the Union, prominent among whom were Mrs. Elizabeth Cady Stanton, Wendell Phillips and Frederick Douglass. That they favored disfranchisement for "Southern rebels," goes without saying. The demand of Wendell Phillips that the government should "confiscate and divide the lands of rebels," was adopted as an independent plank of their platform. Their nominee for Vice-President, General Cochrane, shortly previous, in a speech to the regiment of which he was then Colonel, had (doubtless in emulation of the Duke of Alva) said

21 McKee's National Platforms, p. 122 and 124.

of the Southern people that he "would plunge their whole country, black and white, into one indiscriminate sea of blood, so that, in the end, we would have a government that would be the vice-regent of God."[22] The call for the convention, of which this gentle advocate of civilized warfare was selected as the exponent, was addressed to "Men of God! Men of Humanity! Lovers of Justice! Patriots and Freemen!" Here, then, were self-righteousness, fanaticism and hatred well met; and, surely, such a body would listen favorably to the pleadings that were addressed to it by Mrs. Stanton, Frederick Douglass and Wendell Phillips, in behalf of negro suffrage. But, no—they would disfranchise the rebels, they would confiscate their lands, they would "plunge them into one indiscriminate sea of blood"; but, when it came to the infliction of indiscriminate negro suffrage, even these "red republicans" balked and refused to put into their platform a demand for more than equal *civil* rights, and negro suffrage was not even hinted at by either of their candidates in their letters of acceptance.

This was a great disappointment to Wendell Phillips, who, in his letter to the convention had, as one of his chief grounds of opposition to the President's re-election, said, "Against such recognition of the blacks, Mr. Lincoln stands pledged by prejudice and avowal."[23] But that the country did not agree with Mr. Phillips in regarding this as an objection to Mr. Lincoln, was shown by the fact that he was shortly afterwards renominated by the Republican party, and that fall triumphantly re-elected by the people.

During this year, 1864, the Union people adopted new, or amended old, constitutions, in Arkansas, Connecticut, Kansas, Louisiana, Maryland, Nevada, New

22 McPherson's History of the Rebellion, p. 415.
23 Idem, p. 412.

York, Pennsylvania, Rhode Island and Virginia;[24] but not by a single one of them was negro suffrage adopted, or even mentioned, except expressly to exclude it. Nevada was admitted to the Union this year, without objection from Congress, upon a constitution that expressly limited the franchise to "white" citizens; and, in his annual message of December, 1864, Mr. Lincoln set forth that his ideas on Southern reconstruction (which restricted suffrage to white men) had undergone no change.

Thus it will be seen that, up to January 1st, 1865, the sentiment in favor of unlimited negro suffrage was not strong enough to impress itself upon any State Constitution or political party in the United States; that both Mr. Lincoln and the Republican Congress had, by their respective reconstruction measures in 1864, expressly declared against it; and we have Mr. Lincoln's word for it, in the last public speech he ever made, on April 11th, 1865, after Lee's surrender, and a day or two before his own assassination, that his plan of reconstruction, which limited the franchise to white persons "was, in advance, submitted to each member of the then Cabinet, and distinctly approved by every member of it."[25]

But the sentiment favoring negro suffrage, though weak, was still growing and making its presence felt in various quarters. Lincoln acknowledged this in his speech just quoted from, and reiterated the view, privately expressed a year before by him to Governor Hahn, that, personally, he would "prefer that it (the franchise) were now conferred on the very intelligent (negroes), and on those who served our cause as soldiers."[26] This, however, is as far as he would ever

24 Poore's Constitutions.
25 Lincoln's Works, Vol. II., p. 672.
26 Idem.

depart from his opposition to negro suffrage, as expressed at Columbus, Ohio, in 1859, and he never agreed to, nor advocated, the forcible establishment of even this modified and restricted form of negro suffrage in any State, by making such suffrage a condition precedent to the State's re-establishment in the Union.

In the meantime, the advocates of *general* negro suffrage were not idle. It was the age of political bigotry, and the advocates of this doctrine, like those of female suffrage, were deeply imbued with fanaticism. The movement was invariably strongest where the negroes were fewest. With a certain class of well-meaning enthusiasts, it became a fad, and, in the three States of Connecticut, Wisconsin and Minnesota, and in the Territory of Colorado, where a full-blooded negro was almost as great a curiosity as an Eskimo, the advocates of negro suffrage mustered sufficient strength to get through the Legislature acts submitting to the people for ratification or rejection, in 1865, constitutional amendments extending the franchise to negroes. But in every instance, without a single exception, the amendments were rejected by large and decisive majorities.[27] The "Loyal" citizens of Florida, Georgia, Maine, Mississippi, Missouri, North Carolina and South Carolina,[28] amended their State Constitutions this year. In none of them, however, not even in Maine, was "the door of hope" opened for the colored "man and brother"; and race was never referred to, in the new suffrage laws, save only expressly to exclude the negro from all political rights.

Certain things, however, had now transpired which, while of very different characters, yet united in their effect to strengthen the advocates of negro suffrage.

27 *Tribune Almanac* for 1866, p. 45.
28 Poore's Constitutions.

In the first place, the senseless and dastardly assassination of Mr. Lincoln in April, 1865, greatly exasperated the Northern people against the South, and added fuel to the flames of sectional hatred already burning fiercely, and which were now assiduously fanned by those who, like Sumner, advocated negro suffrage as a punitive measure against the Southern people.

In the second place it was realized, for the first time, now that the war was over, that the enfranchisement of the slaves would greatly add to the political power of the Southern white men. The North had always rebelled against the injustice of the basis of representation as fixed in the Federal Constitution, under which every five slaves in the South were counted as three freemen, in fixing her representation in the Electoral College and in the House of Representatives; but, now that those slaves were free, it was realized that they would be counted as five, instead of three, persons, thus increasing the strength of the South in national councils as if by the addition of some two millions to her population.[29] If this were to stand, the political fruits of the war would be gathered by the South exclusively, and the vote of one white man in the South would be worth about that of two in the North. What was to be done to correct this injustice? As usual, every quack prescribed his own nostrum, and the negrophilists accordingly prescribed negro suffrage as a solution of the difficulty. The medicine, at the time, was thought by the great majority of people to be too heroic, but still many of them began to think it worth considering.

Finally, and as the most potent of all the influences favorable to the cause of negro suffrage, the Radical leaders, about this time, began to regard it as a promis-

29 Thorp's Const. History of the United States, Vol. III., p. 226.

ing means of party aggrandisement. Had not Lincoln, the great leader of the Republican party, emancipated the negroes? Had not his party endorsed and sustained his act, and were they not perpetuating the fruits of a victorious war by adding the prohibition against slavery to the Federal Constitution? Why not enfranchise these freedmen, who, out of gratitude, would ever after pay for their freedom with their votes? These were thoughts then beginning to pass through the minds of the Republican leaders; but, as yet, few seemed bold enough to speak them out publicly, as they did a few years later.

Nevertheless, the yeast was working, and the political mass beginning slowly to ferment. Already Congress had manifested its dissatisfaction with *executive* reconstruction—not because of its exclusion of negro suffrage, for, as we have seen, the Reconstruction Act which Congress itself attempted to pass in 1864 expressly limited the suffrage to white men; but Congress insisted that political reconstruction, irrespective of its conditions, was exclusively the province of Congress; and it accordingly resented, as an invasion of its rights, the attempt of the President to prescribe terms, or make provisions, for reconstruction. This sentiment had led to the refusal by Congress, in 1864, to recognize Lincoln's reconstruction government in Arkansas, and again to its refusal, in 1865, to recognize his reconstruction government in Louisiana; it had produced the "Davis-Wade Manifesto," denouncing Mr. Lincoln for not signing the Congressional Reconstruction Bill of 1864, and had caused much bitterness between him and several members of Congress. His last speech, on April 11th, 1865, was a defence of his attempted reconstruction of Louisiana;[30] and it is more than doubtful if even *his* great tactfulness and powers of leadership, backed

30 Lincoln's Works, Vol. II., p. 673.

by the prestige of his recent victory in the field and at the polls, could have averted the bitter war which Congress was then brewing for the Executive. But when Lincoln's sudden death placed Mr. Johnson in the Presidential chair, that war became inevitable; for no more tactless, impolitic or needlessly combative man ever lived than Andrew Johnson. In his contentions with Congress he was generally right, as is now quite uniformly conceded, but he had the knack of so conducting his controversies as never to gain recruits, and often to prejudice the public against his cause even when truth fought on his side. Consequently, for the first two or three years of his administration, which was one continuous and unseemly contest with Congress, he allowed his opponents successfully to hold him up to the country as little better than a traitor who, with all his friends and supporters, was looked upon by the Northern people with suspicion and distrust. It was enough that he advocated a thing for it to be immediately opposed by Congress; and, until, by its own excesses, it likewise became distrusted, Congress exclusively had the ear of the Northern people.

Shortly after the death of President Lincoln, Mr. Johnson, on May 29th, 1865, promulgated a scheme of his own for Southern reconstruction. This was almost a counterpart of Lincoln's plan, and expressly restricted the suffrage to those qualified under the several State constitutions before secession—that is, to the "white" people. On August 15th, 1865, apparently in further imitation of President Lincoln, Mr. Johnson sent a private communication to Governor Sharkey, of Mississippi, suggesting the wisdom of the Constitutional Convention of that State extending suffrage to those negroes who could read and write, or who owned $250.00

worth of land.[31] This he doubtless thought would be a tub to the whale, and, while admitting practically no negroes at all, would satisfy the Northern clamor against him for his alleged excessive leniency to the "rebel element." But his suggestion was not followed, nor was it repeated by him to any other State. He himself became an open and pronounced opponent of negro suffrage;[32] but his opposition only strengthened it with Congress, and with the supporters of Congress in the North. However, no one as yet thought seriously of its being applied forcibly to the South, or adopted generally throughout the country.[33]

On September 6th, 1865, in the Republican State Convention at Madison, Wisconsin, the increase of Southern representation as a result of the abolition of slavery was discussed, and the injustice of it to the Union States was pointed out. Some proposed to remedy it by negro suffrage, a proposition for which was then pending before the people of that State in the form of a proposed amendment of their State Constitution; but the suggestion of negro suffrage was voted down by this Republican Convention, and, in lieu of it, was adopted, on motion of Senator Doolittle, a demand that Federal representation be hereafter based upon the number of qualified voters, rather than on population as theretofore. This demand became afterwards the basis of the second section of the Fourteenth Amendment.[34]

Of the few prominent men who at this time advocated negro suffrage, the most conspicuous were Wendell Phillips, William Lloyd Garrison, Thaddeus Stevens,

31 Senate Executive Document No. 26, 39th Congress, 1st session, p. 229.

32 See President Johnson's speech to delegation of negroes from "National Colored Suffrage Convention," at Washington, February 7th, 1866. McPherson's History of Reconstruction, p. 52, et seq.

33 Labor's Political Encyclopedia, p. 826.

34 See *New York Tribune*, September 7th, 1865.

Charles Sumner and Frederick Douglass; few, if any, other men of national reputation then favored the idea. Of these men the most influential was Sumner. A powerful and graceful orator, a brilliant and accomplished literateur, he was an impractical idealist, a fanatical partisan, and never a wise statesman. His love for the negro, and his hatred of Southern white men, amounted almost to a mania. He was mentally courageous, and never lost an opportunity to proclaim, and, as far as he could, to enforce, his views on negro enfranchisement. In February, 1865, he successfully conducted against Lyman Trumbull, of Illinois, who cordially disliked him, a filibustering fight in the Senate against the recognition of Mr. Lincoln's reconstruction government in Louisiana, which he opposed because Congress refused to make negro suffrage a "fundamental condition" of that State's re-admission. The amendment to this effect, which Sumner introduced, could not then muster a respectable following in the Senate;[35] but two years later it became the basis of the general Reconstruction Act of March 2nd, 1867. And now, on September 14th, 1865, in his speech at Worcester, Mass., hereinbefore quoted from, Mr. Sumner advocated an *amendment to the Federal Constitution,* prohibiting a denial of the elective franchise on account of race or color, which, four years later, became the basis of the Fifteenth Amendment.

This persistency on the part of a man of Mr. Sumner's note and influence, and the pendency, in no less than four States, of local constitutional amendments granting negro suffrage, began to create uneasiness in those States where negro suffrage was most abhorred. To this measure the West (except possibly Iowa) stood

35 See debates in *Congressional Globe.*

solidly opposed; but there were advocates of unrestricted suffrage everywhere.

In Indiana, Governor Oliver P. Morton, who, shortly afterwards, as United States Senator, was one of the strongest advocates of the Fifteenth Amendment, made an elaborate speech at Richmond, Indiana, against negro suffrage. He spoke most admiringly of Mr. Sumner, but said that on negro suffrage he was an enthusiast, and an impractical visionary. Governor Morton professed himself in favor of giving suffrage to the negro gradually, and as he showed himself fit for it, say within the "next fifteen or twenty years"; but, said he, to say that these slaves who had never known freedom but a few months, were now and already capable of self-government and fitted for indiscriminate manhood suffrage, would be "the highest compliment that could be paid to the institution of slavery." He said he was a strong Republican; that he believed the safety of the country required the keeping of the Republican party in power, but that it could be accomplished much better by harmony and concord at home (referring to the fight then raging against President Johnson) "than by seeking to build up a Southern wing of our party on the doubtful expedient of negro suffrage." This was one of the first *public* admissions that negro suffrage was in fact suggested as a means to "build up a Southern wing" of the Republican party. Governor Morton pointed out that the negroes would vote solidly on all matters, because of race prejudice, and that they would thus come to hold the balance of power in Federal matters. In this he prophesied more truly than he realized. He spoke of the longstanding prejudice of the free States against the admission of free negroes; he mentioned the fact that even then the very negroes who had gone away from Indiana to fight in the Union army were not,

under existing laws, permitted to re-enter that State and return to their homes;[35a] and he suggested that, if negro suffrage could be restricted to the South, it might not be a bad idea, as it would tend to keep the negroes there.[36]

This speech was widely circulated, and had considerable influence, doubtless, in piling up the majorities, a month or two later, against the negro suffrage amendments submitted to the people in November, 1865, in Wisconsin, Connecticut, Colorado and Minnesota. But the orator himself about three years later, seemed to have changed his mind, at least as to the political expediency of general negro suffrage, when, as United States Senator, he helped to railroad the Fifteenth Amendment through the Senate, telling his associates it was "now or never."[37] Before the year 1865 ended, all the suffrage amendments pending in the several States looking to the admission of the negroes, were voted down without a single exception, and by heavy majorities. Evidently the country was not yet ready for a Fifteenth Amendment.

When Congress assembled in December, 1865, the quarrel which it had begun with President Lincoln, and continued against President Johnson, broke out into open war, which, from that moment till the end of Johnson's term in March, 1869, was fiercely and bitterly waged on both sides. Congress refused to recognize any of the governments established in the South under the reconstruction proclamations of either Lincoln or Johnson; it refused to admit Representatives or Senators

35a See Const. of Indiana, Art. XIII.

36 See the speech in pamphlet form in Congressional Library at Washington, D. C. See also, the last idea of negro suffrage for the South to keep the negro there, elaborated in an editorial in the *New York Tribune* of February 1st, 1869.

37 See *Congressional Globe* for February 17th, 1869, p. 1287, and February 26th, 1869, p. 1627-'8.

from those States, and appointed the celebrated Joint Committee on Reconstruction, composed of fifteen members, of which Thaddeus Stevens, of Pennsylvania, on the part of the House, and William Pitt Fessenden, of Maine, on the part of the Senate, were chairmen.[38] Soon the hostility of Congress for the President ripened into bitterness, and the vials of Congressional wrath were liberally poured out upon the devoted heads of all whom he favored or who favored him. The treatment of the late Confederate States being the bone of contention, those unhappy communities became the chief sufferers from the controversy.

In justification of its action in repudiating the reconstruction governments erected in the South by Presidents Lincoln and Johnson, it behooved Congress to show that those governments were disloyal and dangerous to the Union; that they were but the recrudescence of the rebel element—in short, to discredit them with the Northern people in every way possible. To this task the Joint Committee on Reconstruction addressed itself with vigor; and, unfortunately, the chaotic condition of the South, just emerged, as it was, from a devastating war, with five million idle, ignorant, vagabond, newly enfranchised slaves to be assimilated by the body politic, afforded but too much material for criticism.

The Joint Committee on Reconstruction began to take testimony on the condition of the States lately in rebellion, and soon became the Mecca of all the dissatisfied elements in the South. The adventurers, then known as "Carpet-baggers," who had followed the Union armies there, were quick to grasp the political opportunity afforded them for office-holding and plunder, if they could but succeed in disfranchising the native white

38 See *Congressional Globe* of December 13th, 1865.

men and in enfranchising the negroes, whom they found they could readily control. These Carpet-baggers, therefore, at once allied themselves with the Northern negro-suffragists, and, in the shape of evidence submitted to the Joint Committee on Reconstruction, furnished their Northern allies with ample ammunition for their political war at home. Thus the Northern heart was fired, the hands of Congress were strengthened, and the efforts of the President to uphold the Federal Constitution in the South were successfully represented to the country as a traitorous co-operation with "Southern rebels."

In this contest between the President and Congress, it was but natural that the Southern whites should side with the President. They did so, and drew down upon their heads the consuming fires of congressional wrath. The country was assured that, to all intents and purposes, the negroes were the only loyal element in the South; for Congress well knew that it was only to these negroes and their Carpet-bagger allies that it could look, in the South, for supporters of its policy. The laws adopted in various Southern States to regulate vagrancy and prevent the newly enfranchised slaves from becoming tramps by the hundreds of thousands, were represented as veiled attempts to re-enslave them. Unfortunately there was much intemperate and unwise legislation of this sort to give color to the charge; and the infatuated lawlessness of the Ku Klux Klan roused, for its victims, the indignant sympathies of the Northern people. Should these negroes, these friends of the Union, these political allies of Congress and of the Radical party that then dominated it, be left, in a hostile country, naked to their enemies? Above all, should these very enemies have their political power increased by computing in the basis of their Federal representation the very negroes whom they excluded from all share in

the political power which their presence created? If these States be allowed to come back into Congress under the presidential reconstruction, with their increased representation, it would be nothing less than political suicide for the party then in power. What was to be done?

It must be confessed that, from a political standpoint, at least, the situation was embarrassing. Unfortunately for the South, she had favored the weaker side in the Presidential-Congressional fight. Had her white people been able to array themselves strongly with Congress and the Republican party; had they admitted that political reconstruction was a legislative, and not an executive, function, and accepted and insisted upon the Congressional Reconstruction of 1864, it is practically certain that negro suffrage would never have been put upon her. Even as it was, Congress was slow to do it, and did not venture upon that step till after a year or more of careful educating of Northern sentiment and firing of Northern prejudices.

That qualifications for suffrage were in the exclusive control of the States, was a doctrine of such long standing and so well established that, up to this time, practically no one had dared to question it. Mr. Sumner, it is true, had ventured to do so the year before when, in the Senate, in February, 1865, he had opposed the readmission of Louisiana unless she should adopt negro suffrage; but his colleagues had good-naturedly laughed at him as an extremist, and he had admitted that public sentiment was overwhelmingly against him. How, then, was the Federal Government to secure a satisfactory basis of suffrage in the Southern States? Clearly, other amendments to the Constitution were requisite. But to what extent would the North consent to amendments that necessarily would affect them as much as the South? Let us see.

The Dred Scott decision, holding free negroes not to be citizens, was always unpopular in the North and was rendered much more so by the result of the war. It was reasonably sure, therefore, that an amendment conferring citizenship upon them would be practicable. That was one step gained. If he be made a citizen, then that the negro should have protection for his natural and inalienable rights of life, liberty and property, seemed but a natural corollary; the nation, by giving him freedom, had deprived him of the protection of his master, it was, therefore, but just that it should give him in lieu thereof the protection of the laws. So far, then, the ground was safe; the freedman's *civil* rights could easily be provided for, and he himself would have been more than satisfied to let matters rest there. It was more than he had ever hoped for and all that he desired, at least so far as ninety per cent. of his race were concerned. For be it remembered that the Southern negroes, as a race, had neither requested nor desired suffrage, and the demand for it in the South had come almost exclusively from the white Carpet-baggers.

But the negroes' northern friends were vastly more interested in his political than in his civil rights, for these concerned them as well as him. That negroes should ever have been counted in fixing the apportionment of a State's Representatives in Congress or the Electoral College, was always a bone of contention between the North and the South, and a very sore subject with the former; but, if it were unfair that three-fifths of them should be counted when they were slaves, how much worse was it that now, as free men, five-fifths of them should enter into the computation! There would be no trouble in the North to pass a constitutional amendment correcting this. But what should that amendment be?

At first, it was proposed that the registered vote should be taken as the basis of representation;[39] but New England cried out against this, on the ground that the heavy emigration of her young men had made her voters abnormally few in proportion to her entire population, especially as compared with the West. Then it was suggested that the *white* population only be taken as a basis; but this was resisted by all the advocates of negro suffrage, who hoped some day to see it established. What then was to be done? Some were for giving the suffrage to the negro out and out, but they were met, not only by the *opponents* of negro suffrage, but even by those *advocates* of it who were opposed to depriving the States of their unlimited control of suffrage qualifications. Many men recognized the peculiar conditions and political exigencies which, in their opinion, called for negro suffrage *in the South;* but they bitterly opposed it for their own States. In fact, there were not a few who desired it in the South, for the identical reason that they did not desire it at home, that is, that the negro might be induced thereby to remain in the South. He had ever been regarded by the free States as an undesirable immigrant, and they were now in more danger of his invasion than ever before, especially if the first clause of the proposed amendment, securing him citizenship and the equal protection of the laws, should be adopted and thus nullify all their old laws discriminating against him.

All of these perplexing considerations were weighed and discussed by the Joint Committee on Reconstruction, to which were referred all bills on the subject, including several for *general* negro suffrage throughout the Union and for the permanent disfranchisement of

39 This was the plank which Senator Doolittle has placed in the Wisconsin Republican State platform in September, 1865.

all "rebels." Finally, it was suggested, as a revelation from Heaven, that the difficulty could be solved by so wording an amendment as to induce, rather than compel, the States to adopt negro suffrage; which, it was claimed, could be accomplished by cutting down their representation in proportion as they should deny their male citizens the electoral franchise on account of race. This was believed at the time to be almost a divine inspiration.

Under this arrangement, it was said, everybody would get what they wanted. The States' Rights men would observe that each State was left free to regulate suffrage as it chose. The New Englanders would lose no part of their representation. The free States would be at liberty to continue keeping out negro immigrants by denying them the suffrage, and yet their existing colored population was so small that they would lose absolutely nothing in their Federal representation. But the Southern States, where the negroes were nearly half the population, could not, it was said, resist the temptation to double their political power by enfranchising their negroes voluntarily, thus satisfying at once those who wished to reward the loyal negro, by giving him the elective franchise, those who wished to punish the disloyal States, by making them purchase with negro suffrage a right they had always enjoyed under the Federal Constitution, and those who wished to perpetuate the power of the Republican party with negro votes. The suggestion was promptly adopted by the Joint Committee on Reconstruction, thrown, together with the clause securing his citizenship and civil rights and some other less important provisions, into the form of a Fourteenth Amendment to the Federal Constitution, and reported, on April 30th, 1866, to Congress,

which, on June 16th, 1866, adopted it and sent it out to the States for ratification.

In the meantime, the advocates of general negro suffrage for the whole country continued to press it. President Johnson greatly opposed it, and this alone sufficed to make Congress favor it. But, whenever it was submitted to the people, it was invariably defeated. In an interview with George L. Stearns, of Massachusetts, on October 3rd, 1865, which was widely published, President Johnson, referring to negro suffrage, said that "you could not have broached the subject at the North seven years ago," and that he opposed it as much for the South as for the North; that a limited grant of it to colored soldiers and property holders might do, but that indiscriminate negro suffrage would lead to a race war.[40] This he repeated in letters and interviews throughout the winter and spring of 1866.[41]

Measures having been introduced in Congress looking to the establishment of negro suffrage in the District of Columbia, that question was, in December, 1865, submitted to the voters there, with the result, in Georgetown, of one vote for and 812 against, negro suffrage; and, in Washington, of thirty-five for, and 6,521 against, the measure—the aggregate vote in each place being among the largest ever cast there, up to that date, on any question.[42] Yet, notwithstanding this expression of popular disapproval, the House of Representatives, on January 18th, 1866, passed a bill establishing negro suffrage in the District.[43] This bill did not pass the Senate that session, but, on January 8th, 1867, it passed both Houses over the President's veto.[44] In three or

40 McPherson's History of the Reconstruction, p. 49.
41 Idem., pp. 51 and 52.
42 See message of President Johnson, vetoing District of Columbia Suffrage Bill, January 7th, 1867.
43 See *Congressional Globe* of January 18th, 1866.
44 See *Congressional Globe* of January 8th, 1867.

four years, however, this experiment with negro suffrage became so unbearable that Congress (prevented by the Fifteenth Amendment from restoring the former status of white suffrage), abolished suffrage altogether in the District of Columbia, whose white citizens very naturally preferred to be governed by foreign whites, rather than by local blacks. Thus a Republican Congress, by unprecedented action in each case, was, at once, the first to establish, and the first to abolish, negro suffrage in America.

In September, 1865, the Territory of Colorado took a vote on the proposition to adopt negro suffrage. The vote stood 476 for and 4,192 against negro suffrage, and so that Territory continued to limit suffrage to "white" men.[45] But in May, 1866, the Federal House of Representatives passed a bill peremptorily establishing negro suffrage in Colorado and all the other Territories.[46] The bill, however, did not pass the Senate till the following January, when it became a law without the President's signature.[47]

This apparent purpose of Congress, to disregard the expressed will of the people and to force negro suffrage on the country, aroused much adverse criticism. Democratic papers and conventions, throughout the North, denounced Congress and warned the country that it was preparing the way to force negro suffrage on the loyal States. The Republican papers and conventions vehemently denied having any such intention, and said it was a mere chimera, gotten up by Democrats to prejudice the people against a Republican Congress;[48] but, ap-

45 *Tribune Almanac* for 1866, p. 69.

46 See *Congressional Globe* of May 15th, 1866.

47 See *Congressional Globe* of January 10th, 1867, and McPherson's History of the Reconstruction, p. 184.

48 As a sample of these denials, the "Unconditional Union Party," of Maryland, composed exclusively of loyal men, met in convention on June 6th, 1866, and passed resolutions, endorsing the Congressional Reconstruction

parently, their denials were not entirely reassuring to the people. When therefore, the Fourteenth Amendment was passed by Congress on June 16th, 1866, it was thought wise to follow it up with a report of the Joint Committee on Reconstruction, setting forth the fearful condition of affairs in the South, as the justification of the political sections of that Amendment, and to quiet the apprehensions of the people lest Congress be contemplating the forcing of negro suffrage on the *loyal* States. Such a report was accordingly made two days later, on June 18th, 1866; but, it was promptly followed on the 22nd, by a report from the minority of that committee, drawn by Senator Reverdy Johnston, of Maryland, which deprived the majority report of so much of its force and effect that more than two years passed before ratification of the Fourteenth Amendment could be secured, even if it ever was.[49]

Nothing of consequence was done during the rest of this year on the question of negro suffrage. The Democratic papers and conventions everywhere denounced it, and the Republicans, recognizing it as, at best, an unpopular issue, either ignored it or disclaimed any purpose of applying it anywhere, save in the "rebel States," where they said that justice called for it as a reward to the local blacks and as a punishment to the disloyal whites. In the meantime, the Northern people,

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measures, but saying that: "The question of negro suffrage is not an issue in the State of Maryland, but is raised by the enemies of the Union party, for the purpose of dividing and distracting it." The resolutions then went on to declare against negro suffrage for Maryland. See full report in McPherson's History of the Reconstruction, p. 124.

See, also, to the same effect, the address of the "National Union Committee," composed of Horace Greeley and others, denouncing President Johnson, praising Congress, and denouncing *as a slander* the charge that Congress contemplated *forcing* Negro suffrage, even on the South, and urging the adoption of the Fourteenth Amendment. *Tribune Almanac* for 1867, p. 45.

49 For these two reports in full, see McPherson's History of the Reconstruction, p. 84, et seq.

without exception, continued to vote against negro suffrage whenever and wherever it was submitted to them.

In June, 1866, the people of Nebraska adopted a Constitution in which suffrage was limited to white persons. In February following, Congress passed a bill over the President's veto, admitting Nebraska on the "fundamental condition," that negroes should *not* be excluded from the elective franchise, and authorized the *Legislature* of Nebraska, which was Republican in both Houses,[50] to declare the State's assent to this "fundamental condition" by a "solemn public act," without referring the matter to the people or even having the bill approved by the Governor. This the Legislature proceeded to do, and, thus, was negro suffrage established in Nebraska over the opposing votes of her people.[51] State Constitutions were amended or adopted this year in Michigan, Tennessee, Texas and West Virginia; but negro suffrage was not introduced into any of them.[52]

When Congress assembled in December, 1866, the rejection of the Fourteenth Amendment by the Southern States, reconstructed under the Presidential plan, had not only exasperated the advocates of that Amendment, but furnished them with new and powerful ammunition against Presidential reconstruction, under which they claimed that President Johnson had reinstated in authority the old secession element in order to create political power for himself. The Northern heart was again fired; the Northern people were told that the men whom they had defeated in battle after a long and bloody war were about to outwit them in council and

50 *Tribune Almanac* for 1867, p. 70.

51 Thorps' Const. History of the United States, p. 254 and note. President Johnson's proclamation, declaring Nebraska a State, March 1st, 1867. For a curious bit of private history concerning the origin of the Nebraska Constitution, see Thorp, supra, p. 251, and note.

52 Poore's Constitutions.

regain in politics the power they had lost in war. Every indiscreet expression of violent, hot-headed men in the South, was seized upon and exploited as additional evidence that the "South was still in the saddle," and its unrelenting hostility to the North was said to be clearly shown by the unanimity with which it had rejected the just and reasonable provisions of the Fourteenth Amendment. In fact, it cannot be denied that the Radical wing, which then dominated the Republican party, was quite sure of defeat if Southern representatives, elected by white men, should at this time be admitted to Congress, and the Radical leaders were fighting for the life of their party, which they insisted was identical with the life of the Union.

The advocates of negro suffrage were not slow to see their opportunity, and again prescribed their nostrum of enfranchisement of the colored "man and brother," as "the one all-sufficient remedy"[53] for all the political ills that then afflicted and distracted the country. The negroes and carpet-baggers of the South naturally clamored for the same thing. The Radical leaders in Congress considered the suggestion from a political point of view, and "saw that it was good." But the country was not yet ready either to accept, or submit to, negro suffrage, and must be educated up to it, or, at least, familiarized with and accustomed to it. Accordingly Congress, which, at the time, was dominated by Thaddeus Stevens to an extent it has probably not been by any other one man, promptly addressed itself to the task before it, for Stevens, of all men, had the courage of his convictions and believed in vigorous action.

Things began to happen. Important events crowded upon each other's heels, and, before the country could

53 See resolutions of the Convention of Southern Loyalists at Philadelphia, in August, 1866. McPherson's History of Reconstruction, p. 242.

realize what was taking place, negro suffrage—the most unpopular measure of the day, advocated by no party in its platform and repeatedly and uniformly rejected by the people at the polls—had suddenly become, in a large part of the Union, *un fait accompli.*

On December 13th, 1866, Congress passed a bill establishing negro suffrage in the District of Columbia, and repassed it over the President's veto on January 8th, 1867. Two days later it enacted an omnibus bill, establishing negro suffrage in all the territories. On February 9th, 1867, in spite of the President's veto, it forced negro suffrage on Nebraska in the manner just mentioned. And on March 2nd, 1867, the famous Reconstruction Act was passed over the President's veto, relegating the Southern States to the condition of military districts, fixing negro suffrage upon them, and disfranchising the large majority of their white men.[54]

This was a *coup d'etat* of the first magnitude. It could never have been successfully carried out under any other circumstances than those in which the country then found itself, and, doubtless, by no other men who have ever wielded the destinies of this Nation than that masterful coterie of political bigots and fanatics which then dominated Congress. The helpless South was simply paralyzed by the blow. The North, although long and carefully prepared for it, scarcely realized what had been done. But the Radical leaders in Congress realized that they had given a *coup de grace* to their adversaries, and that thereafter they would "rule the roost" undisturbed for some time to come.

These leaders recognized that their action was unconstitutional—Mr. Stevens hardly took the trouble to pretend it was otherwise. They knew they had burnt the bridges behind them and that their only safety lay

54 See *Congressional Globe* for January, February and March, 1867.

in making themselves the practical dictators of the country. On the same day, therefore, that they passed the Reconstruction Act, they proceeded to emasculate the office of President, by passing, over his veto, the Civil Tenure Act, whereby they took possession of all the patronage of the executive office, and reduced the President to a mere ministerial officer of Congress. They so far ignored President Johnson, that it was only necessary that he veto a bill to insure its immediate passage, over his veto, by largely increased majorities. They denounced him as a traitor; they accused him of harboring designs to turn the government over to the "rebels"; they posed as the rescuers of the country from impending destruction, and they finally impeached the President for high crimes and misdemeanors. He, on the other hand, by his undignified conduct, his violence and his tactlessness, played into their hands and assisted in increasing his own unpopularity and consequently in augmenting their strength.

These Congressional Radicals ostracised every man who resisted them and impugned the motives of all who differed with them, not even excepting the Chief Justice of the United States. They attacked the Supreme Court and took from it jurisdiction to pass upon the validity of the Reconstruction Acts;[55] and some went so far as to threaten speedy impeachment for the entire Court, if they should dare to hold *any* Act of Congress unconstitutional.[56] Finally, like most similar bodies intoxicated with unlimited power, their own excesses wrought their destruction, but not before, in a last desperate effort to retain and perpetuate that power which they saw slipping from their hands, they had fastened negro

55 Ex parte McArdle, 6 Wall., 318; Act of Congress, March 27th, 1868, 15 U. S. Stat. 44; Ex parte McArdle, 7 Wall., 515.

56 Speech of Senator Drake, of Mo., on February 8th, 1869. See *Globe*, p. 992, et seq., and also *New York Herald* of February 10th, 1869, p. 3.

suffrage, as a national institution, upon an unwilling country.

As the representatives, for the time being, of that great party which claimed credit for having saved the Union, as the very men themselves who insisted that they had effected a second rescue of the country from the machinations of the "arch traitor" President Johnson, and his Southern allies, these men, who have well been called "the Jacobins of Congress"[57] dominated a party, which, in turn, dominated the country. The great majority of the Northern people looked to them as the saviours of the country, and trusted them with implicit confidence. This confidence, these Radical leaders first appealed to and then betrayed, in order to establish negro suffrage, which they thought essential to the perpetuation of their power.

The instrumentalities employed by Congress for the accomplishment of this measure, were the State Legislatures, most of which the Radicals then controlled.[58] In February, 1867, the Legislature of Tennessee undertook to change the Constitution of that State, so as to create negro suffrage, by a simple statute, without reference to the people. In April, the Ohio Legislature proposed negro suffrage to the people of that State, but at the October election it was voted down by over fifty thousand majority. In November, the people of

57 See *New York Herald*, January 15th, 1869, p. 6.

58 See speech of Senator Henry Wilson, of Massachusetts, on February 26th, 1869, *Globe*, p. 1626, in which he referred to the fact that his radical faction "had twenty-five State Legislatures in the hands of our friends," as a reason for rushing through an amendment which a few days before (see *Globe*, page 672), he had said was unpopular in every square mile of the United States. See also the appeal of Senator Stewart, of Nevada, on the same day, that the amendment be not allowed to go over five days to the incoming Congress, although it would be more than two-thirds Republican: "*Your* Legislatures," said he, "are waiting now, ready to act. Send it (the Amendment) to another conference and the whole thing is lost!" *Globe*, p. 1629. See, also, editorial of *New York Tribune*, February 27th, 1869, claiming twenty-six States to be "safely Republican."

Kansas and Minnesota were invited by their Legislatures to try negro suffrage, but they would have none of it, and voted it down by large majorities.[59]

The people would follow their political leaders in everything but negro suffrage; at this they balked and ever had balked, and doubtless, ever would balk. The faithful legislatures were willing enough to do the bidding of the party leaders in Congress, but they simply could not lead the people on this one point—in no single instance had they succeeded. Why were the people so stubborn and so prejudiced? Could they not see the urgent need of the negro vote to preserve their party in power and thus save the country? Apparently they could not, or would not. How, then, could this essential thing of negro suffrage be obtained?

The Reconstruction Acts of March, 1867, had, indeed, established negro suffrage where it was most needed; but, in the first place, negroes were rapidly coming north, where they might soon hold the balance of power, and, in the second place, the Reconstruction Acts were liable to be rescinded or set aside as unconstitutional;[60] furthermore, the Southern States were bound, sooner or later, to come back into the Union as States and they would then surely abolish negro suffrage, in spite

59 A bill was introduced this year (1867), in the Lower House of the New Jersey Legislature, to submit a negro suffrage Amendment to the voters of that State; but it was defeated in the House by a vote of practically two to one—the exact vote was twenty for and thirty-eight against negro suffrage. See House Journal of New Jersey Legislature, 1867.

60 The Northern Democrats were loud in their denunciation of the Reconstruction Acts and in their avowed intention of disregarding and repudiating them as unconstitutional and void, as soon as their party should come into power. See General Blair's letter, July 13th, 1868, accepting the Democratic nomination as Vice-President (McPherson's History of Reconstruction, p. 369), and his widely published letter of June 30th, 1868, to Col. Brodhead, which gained the nomination for him (Idem., p. 380). It was common knowledge that, but for the Act of March 27th, 1868, depriving it of jurisdiction, the United States Supreme Court would have decided in the McArdle case that the Reconstruction Acts were unconstitutional and void.

of all the "fundamental conditions" that might be imposed upon them. Manifestly, no political power could be safely built upon such shifting sand as these Reconstruction Acts. Negro suffrage must be embodied in the Federal Constitution. But how get it there, if the people of the North remained so solidly against it? This was a difficult problem, but the "Jacobins of Congress" showed themselves equal to solving it.

On March 7th, 1867, Mr. Henderson, of Missouri, had introduced in the Senate a joint resolution, known as "Senate Resolution, No. 8,"[61] which was read and referred to the Judiciary Committee. This resolution was not discussed at the time, but it carried out the suggestion of Mr. Sumner at the Worcester Convention in September, 1865, that the Federal Constitution be amended so as to prevent the exclusion of negroes from the elective franchise, and two years later it became, with a slight alteration, the Fifteenth Amendment of the Federal Constitution. At the time of its introduction, however, in March, 1867, it created no comment; it did not make a ripple; for who then would have thought the ratification of such an amendment possible!

During the year 1867, after the first astonishment of the people at the reconstruction measures began to die out, the public became a little restive under the course pursued by the Radicals. It is true that the Radical leaders still dominated the Republican party, but a revulsion of sentiment was becoming manifest and more moderate counsels were being listened to. The Democrats persisted in their charge that the Radicals were trying to force negro suffrage on the States by Federal authority; the Radicals still bitterly denied it, but the facts were strongly against them. From the South came no sound, save the cry of the carpet-baggers for "negro

61 *Congressional Globe*, March 7th, 1867, p. 13.

suffrage and rebel disfranchisement," like the distant howl of jackals over a dead lion's carcass.

The moderate wing of the Republican party began to grow rapidly. The adoption of the Fourteenth Amendment by the South, during this year, had mollified their anger, and the utter helplessness of that crushed and exhausted people had quieted their fears. The arbitrary tyranny exercised over the Confederate States by the parliamentary "Rump" at Washington, began to excite alarm among the people of the North who had hitherto followed them, but were now beginning to fear lest their own liberties be invaded; and struggling slowly through the multitudinous cries of continued confusion and desolation, the voice of humanity at last made itself heard, for General Grant did but speak the rising sentiment of a whole people, wearied and disgusted with the endless orgies of Congressional Reconstruction, when he said, in accepting his nomination for President, "Let us have Peace!"

This moderate wing of the Republican party was not a little strengthened against the Radicals, in the winter and spring of 1868, by the unsuccessful attempt of the latter to impeach President Johnson, which soon began to assume the form of persecution. Was there to be no end to the assumption and concentration of power by Congress? Were the Executive and Judicial branches of Government to be obliterated? Was State Government to be wiped out, and all power centered in the Federal Congress, which, by rapid strides, unchecked by Constitutional provisions, was fast assuming and exercising despotic sway? These suggestions were assiduously spread by the Democrats, and were finding lodgment in many Republican minds.

The Congressional leaders still had the confidence of their party to a great extent; but the impression began

to prevail that, when such staunch and true Republicans as William P. Fessenden, of Maine, and Lyman Trumbull, of Illinois, could not follow them,[62] these leaders had lost their heads and must be checked. General Grant, accordingly, was put forward, as the representative of the moderate element of his party and the strength of his supporters was shown by his nomination at Chicago on May 21st, 1868, as the Republican candidate for President. This was a defeat for the Radicals, and they recognized it as such. But this was not all.

There was a strong element among the Congressional Radicals which contended that, under the old Constitution, suffrage in all the States could be regulated by act of Congress. On February 24th, 1865, while resisting the recognition of Louisiana's government, Mr. Sumner, in the Senate, insisted that Congress had the right to regulate suffrage in any State, and should exercise that right by the establishment of negro suffrage.[63] On February 27th, 1866, Judge Kelley, of Pennsylvania, in the House, again contended for the same doctrine.[64] On December 18th, 1865, a resolution introduced in the House by Mr. Thornton of Illinois, to the effect that Congress did not have the right to control suffrage in the States, was laid on the table by a vote of 111 to forty-six,[65] and again, on February 26th, 1866, a similar resolution by Mr. Defrees, of Indiana, was referred to the Judiciary Committee by a vote of eighty-six to thirty, and never reported.[66] These and other similar outgivings by Congress of its views on this question (all of

62 Both of whom voted against conviction, in the impeachment trial of President Johnson, and, thereupon, together with their five Republican colleagues, who voted with them, were denounced by the Radicals as "the seven traitors"—see *New York Herald* of January 24th, 1869. For the vote in full, see *Congressional Globe* for May 16th and 26th, 1868.

63 See *Congressional Globe* for February 24th, 1865, p. 1067.

64 See Idem., January 29th, 1869, p. 721.

65 See *Congressional Globe* for December 18th, 1865, p. 70.

66 Idem., February 26th, 1866, p. 1033.

which were in connection with negro suffrage), together with its positive acts in establishing such suffrage against the almost unanimous will of the people (as expressed by their votes and local constitutions) in the District of Columbia, in all of the Southern States, in Nebraska and in the territories, were seized upon by the Democrats as evidence of the fixed determination of the Radical party to force negro suffrage upon *all* the States, *nolens volens*. The undeniable facts lent so much color to this charge, that it found much credence with the people, and created so great a feeling of alarm, that the dominant party was in great danger of defeat at the ensuing Presidential election.

There can be no doubt, especially in view of subsequent events, that it was then the purpose of the Radical wing of the Republican party, which, at the time, controlled Congress and the State Legislatures, to force negro suffrage upon the country at large, as a means of perpetuating their power; but it seems equally clear that the great majority of the Northern people, comprising all the Democrats, and a large portion of the rank and file of the Republicans, were unalterably opposed to negro suffrage for their own States—although many Republicans were prepared to consider it in a very calm and philanthropic light as applied to the hated South, that political Edom over which the Lord had cast forth his shoe.

It therefore became manifest to the Republican leaders, especially to those of the moderate wing, that in order to succeed in the ensuing presidential campaign, the opposition of the people to negro suffrage for the North must be placated and their alarm lest it be forced upon them must be soothed; at the same time, the action of the Radicals, in having already forced it upon the South, must be reconciled and explained. Many of the

Radical leaders, however, were opposed to saying anything on the subject. They were of the same opinion still as to the necessity of negro votes to sustain themselves against the subsiding political tide, which they saw had already set in, and they yielded with sullen and bad grace to the second plank in the platform of their party, adopted in the Republican National Convention at Chicago, on May 21st, 1868,[66a] which was as follows:

"2. The guaranty by Congress of equal suffrage to all loyal men at the South was demanded by every consideration of public safety, of gratitude and of justice and must be maintained; *while the question of suffrage in all the loyal States properly belongs to the people of those States.*"[67]

This plank, it was thought, would placate everybody in the party. Those who feared negro suffrage for themselves were assured, in the most solemn manner, that it should never be forced upon them, but that "the question of suffrage in all the loyal States properly belongs to the people of those States." Away, then, with the campaign bugaboo of negro suffrage for the North, which had been raised up by the Democrats, merely to divide and distract the Republican party! Was there not here in this National platform of that party such a distinct and unequivocal declaration — amounting even to a pledge — against it, as should satisfy any reasonable man?

But, for the South—that, of course, was a different question. Gratitude to the negroes for their loyalty and military service; the necessity of furnishing them with some weapon of defence against the Southern white

66a See *National Intelligencer*, March 4th, 1869.

67 See McKee's National Platforms, p. 136, and letter of Schuyler Colfax of May 30th, 1868, accepting the Republican nomination as Vice-President. McPherson's Reconstruction, p. 366.

men, who were said to be so much more hostile and cruel to them than the Northerners; a just punishment of the Southern whites for their treason; the securing of those disloyal and seditious States for the Republican party—an essential for the safety and welfare of the country; and finally the discouragement of negro emigration from the South to the North—these were amply sufficient justifications for forcing negro suffrage on the South, to a party in whose councils none appeared who undertook to speak for that section, but the negro himself and his evil genius, the carpet-bagger.

In July, 1868, the Democratic National Convention met at New York, and, while they demanded that the right of suffrage should be left to the respective States, it was manifest that, on this issue, at least, the Republican platform of six weeks previous had taken the wind out of their sails by declaring for the same thing, so far as the North was concerned. And thus the fears of the Northern people on that point were soothed to sleep, and a vote of confidence was given to the Republican party that fall in the triumphant election of General Ulysses S. Grant as President.

The advocates of general negro suffrage, however, had not relaxed their efforts. Iowa was known to be overwhelmingly Republican. The Census of 1870 showed that, of men over twenty-one years of age in Iowa, there were 289,162 whites and 1,542 negroes.[68] In 1868 it is reasonably certain that there were less than one thousand negro men of voting age in the entire State, or approximately about one-third of one per cent. of the voting population. Surely negro suffrage could not hurt those people much more than Indian suffrage would now hurt Virginia. Here, then, was the place to make another effort to establish negro suffrage

68 Ninth Census, Report on Population, p. 619.

as an object lesson. Accordingly, an amendment to the State Constitution, striking out the word "white" from the suffrage clause, was submitted to the votes of the people of Iowa on the presidential election day in November, 1868,[69] and was carried, although by a majority of 22,000 less than the regular Republican ticket.[70] Thus Iowa gained for herself the distinction of being the first State in the Union whose people had, without compulsion, voted for negro suffrage when that issue was submitted to them. Her notable example, it is believed, has never since been followed but once.[71]

A proposition to extend the elective franchise to the colored race had been voted down by the people of Minnesota in 1865,[72] and again in 1867;[73] but its persistent advocates, crying "once more to the breach," returned to the charge in 1868. As in Iowa, no *argumentum ad hominem* could be addressed to the voters of Minnesota against negro suffrage. In 1865, out of a population of 250,099, there were only 411 negroes of all sexes and ages.[74] In 1870, of males of twenty-one years of age, there were, in that State, 114,344 whites and 246 negroes.[75] The question of negro suffrage for their own State was therefore submitted to the voters of Minnesota at the presidential election on November 4th, 1868, and was carried by about three-fifths of the majority accorded the Republican ticket.[76] And so Minnesota took her place as the *second and last* State in the Union

69 Tuttle and Durries' History of Iowa, p. 348.
70 *Tribune Almanac* for 1869, p. 75.
71 To avoid misunderstanding, it will be repeated that this statement disregards negro suffrage clauses embodied in State Constitutions, *since* the enactment of the Fifteenth Amendment to the Federal Constitution.
72 *Tribune Almanac* for 1866, p. 64.
73 Idem., for 1868, p. 32.
74 Statistics published by Minn. Printing Co., St. Paul, Minn., 1871, pp. 116 and 123.
75 Ninth Census, Report on Population, p. 619.
76 *Tribune Almanac* for 1869, p. 74.

whose people, on the direct issue of negro suffrage, have ever voted for it.[77]

It was true that this issue, even in Iowa and Minnesota, had showed itself much weaker than the party; but its majorities, like Mercutio's wound, though "not so deep as a well nor so wide as a church door," would serve; and, although they resulted in enfranchising only a thousand men in Iowa, and two hundred in Minnesota, they represented the first break in a long line of continuous defeats at the polls for the negro suffragists, and thus revived their drooping spirits.

In Missouri, where negro suffrage had also been submitted to the people this year, it was rejected by 18,000 majority.[78]

Michigan belonged to the Tenth Legion of Republicanism. In 1860, 1864, and again in 1868, she gave that party unshaken majorities, ranging from seventeen to thirty-odd thousand.[79] The negro men in that State over twenty-one years of age amounted to less than one per cent. of the white voters,[80] and it was hoped that the State could be carried this year for negro suffrage, notwithstanding that it had before rejected it.[81] Accordingly the question was submitted to the people of that State on April 6th, 1868. It was made a party issue, the Republicans, in their State platform, declaring for it, the Democrats being against it.[82] It was defeated at the polls by nearly 39,000 majority,[83] although the Repub-

77 See note 71, supra.
78 *Tribune Almanac* for 1869, p. 85.
79 Idem., p. 88.
80 Ninth Census, Report on Population, p. 619.
81 Thorp's Constitutional History of the American People, Vol. II, p. 286.
82 See Resolutions of State Republican Convention at Detroit, March 18th, 1868, and of the State Democratic Convention at same place on May 29th, 1868. American Annual Cyclo., 1868, p. 493-'4.
83 To be exact, the majority against negro suffrage was 38,849; Am. Annual Cyclo., for 1868, p. 494.

lican party carried the State that same year by nearly 32,000 majority.[84]

These repeated popular votes on negro suffrage during the last three years, clearly demonstrated the fact that the leaders of the Republican party were for negro suffrage, but that the rank and file of that party were against it; and that, counting men of all parties, the people of the nation, even in the North, were overwhelmingly opposed to it.

The explanation of this state of affairs is comparatively simple. The great majority of the people cared little, and knew less, about political strategy and party tactics, and only voted their personal views on any matter about which they had any views. On the merits or demerits of Congressional Reconstruction, the attempted impeachment of the President, the throttling of the Supreme Court in the McArdle case, etc., etc., they had no personal views, and were therefore content to follow and endorse the judgment of their political leaders; but, when it came to the introduction of negro suffrage into their own States and homes, making it possible, even in theory, for a Congo negro to rule over them, their race instinct revolted, and they refused to follow their leaders on that issue. The humbler, the obscurer the voter, the more alarm he felt, and the more he revolted at the idea of being put on a par with the negro. He was brought into immediate contact with the normal negro, and knew him as he really was; he frequently had him as his co-laborer or competitor, and he did not propose to surrender his distinctive badge of superiority as a member of the ruling and dominant Caucasian race, which had never yet received any other race of man on terms of political, or social, equality.

84 The exact figure was 31,481; *Tribune Almanac* for 1868, p. 78.

But the *leaders* of the party, both in Congress and in the various State Legislatures, viewed the matter from an entirely different standpoint. They were far removed from personal contact, or competition, with the negro. They personally had nothing to fear from his admission to the franchise, for he was never likely to attain to anything higher than a county or ward office. And so these leaders were not prevented by personal feeling or prejudice from taking a cold and impartial view of the political battle-field, and adopting such measures as might conduce most to party victory, regardless of "race, color or previous condition of servitude." In addition to this, they had a much broader view of the situation, from their higher altitude, than the average voter had; and, to them, it was apparent that their reconstruction measures have set the entire white race of the South solidly against their party for at least a generation to come, and that, as the Southern States were bound to come back into the Union before long, the only hope of the Republican party, in the South, lay in the negro vote. In the North these Radical leaders saw unmistakable signs that the tide of political prosperity was beginning to ebb,[85] and, as the potential negro vote was already considerable in several of those States, it was most desirable to secure it for the Republican party;[86] otherwise, when the white vote from the South should be added to the Democratic vote of the North, hopeless defeat was the inevitable portion of the Republican party.

It is not true, however, that all of these Republican leaders were actuated by malice towards the South, or by heartless political ambition; on the contrary, they

85 See editorials in *New York Herald* January 12th and 21st, 1869.

86 See speech of Mr. Sumner in the Senate on February 5th, 1868, *Globe*, p. 904.

had so long taught, and been taught, that the Republican party had saved the Union—first during the war, and afterwards from the "diabolical machinations" of President Johnson and the Southern secessionists—that many of them sincerely and heartily distrusted the Democratic party of the North, and construed its sympathy for the crushed and suffering South as a secret approbation of its secession ideas. Many of these Republican leaders therefore sincerely believed that, by forestalling Democratic success, they were doing God a service, regardless of the means employed; that the life of the Republican party's power was co-terminous with the life of the nation; and that, when that party should suffer defeat in Congress, "Ichabod" should be written over the doors of the capitol.

In 1868-'9, among the Radical leaders, party fealty was a religious duty; and those in the State Legislatures, further removed from the sources of original information than those in Congress, were, generally, the most sincere in their fanaticism. To these men the Radical leaders in Congress were the only men who had the wisdom to see the danger of the country, and the courage to do what was necessary to avert it. In their eyes the moderate Republicans, who practically composed the rank and file of their party, were only good-natured, easy-going people, who did not realize the danger they were in, and were allowing a silly, unreasoning prejudice to make them reject negro suffrage, which alone could avert the national calamity of Democratic ascendancy. The people must be saved from themselves, and negro suffrage must be established and perpetuated in spite of them.

Thus sincerely, or insincerely, reasoned the Radical leaders, when, on December 7th, 1868, in defiance of the pledges just made by their party in its national

platform, and upon which it had asked and just received a vote of confidence from the people, Mr. Boutwell, of Massachusetts, introduced in the House, immediately upon the re-assembling of Congress, a bill, to be passed as an ordinary act of Congress, establishing negro suffrage throughout the United States;[87] and, on the same day, Judge Kelley, a representative from Pennsylvania, introduced a joint resolution proposing a constitutional amendment to make that act irrevocable.[88]

Several bills and joint resolutions of similar import were introduced by other members about the same time; but all were abandoned, except these two. The Boutwell bill provided only for the right to vote for presidential electors and members of Congress; the Kelley resolution covered the right of suffrage generally, both Federal and State; neither one referred to the right to hold office, and both prohibited any discrimination on account of race.[89] Neither the resolution nor the bill was reported from the Judiciary Committee, to which it had been referred, until January 11th, 1869.[90] In the meantime, powerful influences were at work favorable to negro suffrage.

In the South the negroes had been forcibly enfranchised by the Reconstruction Acts, which also disfranchised the majority of her white men. These acts had been passed over the presidential veto, enforced by military authority, and the Supreme Court had been inhibited from passing upon their constitutionality.[91]

87 House Bill No. 1463. See *Globe*, December 7th, 1868, p. 9.

88 House Joint Resolution No. 363. See *Globe*, December 7th, 1868, p. 9.

89 I am reasonably sure this is correct, though I have not been able to obtain an exact copy of the original Boutwell bill. I get my ideas of its provisions from the debates upon it. For copy of the Kelley resolution see *Globe* for December 7th, 1868, p. 9.

90 See *Globe* for January 11th, 1869, p. 285.

91 Act of Congress, March 27th, 1868, 15 U. S., Statutes 44; Ex parte McArdle, 7 Wall.

The Southern people were helpless—why kick against the pricks, and further exasperate the dominant party by their contumacy? Was it not the part of wisdom to yield to the inevitable, frankly recognize negro suffrage as an accomplished fact, and deal with it as such? The Northern Democrats exhorted them to hold out a little longer, till the Republicans could be turned out of power and relief would come; but human nature could not last forever, and the conditions at the South were becoming unbearable.[91a] The Southern people at last realized that, without accomplishing anything towards getting rid of negro suffrage, they were, by their resistance, merely disfranchising themselves and allowing their States to fall into the hands of the carpet-baggers, adventurers and tramps, who had come, no one knew whence, and dropped like vultures out of the sky to gorge themselves upon the political carcasses of those dead States.

An idea at that time prevailed with some in the South that, if the white men were allowed to vote, and would frankly accept negro enfranchisement, the negroes would abandon their carpet-bagger leaders and naturally follow their old masters,[92] or would, at least, divide among themselves and become more amenable to the good influences and wise counsels of the conservative whites. These views had carried the day in all of the Southern States, except Virginia, Mississippi and Texas, which still stood out—the others abandoned their struggles against negro suffrage, adopted constitutions perpetuating it, and, in 1868, were readmitted, through their representatives, into Congress.

91a See *National Intelligencer* for January 12th, 1869, p. 2.

92 See editorials in *New York Herald* of January 26th, 1869; in *New York Tribune* of January 19th and 27th, and February 9th and 27th, 1869, and in *National Intelligencer* of January 4th and 5th, and February 1st, 1869. But Governor Morton prophesied otherwise in his speech above quoted from, and the negroes themselves, it would seem, agreed with him. See *Cincinnati Commercial*, January 20th, 1869, see also *New York World* of February 8th, 1869.

This submission to negro suffrage by the South, like factitious confessions wrung from victims on the rack, was seized upon by its Northern advocates as confirmation of the justice and wisdom of the measure.[93] In this they were fully sustained by the Southern representatives in Congress—themselves for the most part either negroes or carpet-baggers—plundering vagrants, of whose antecedents they themselves were often too ignorant or too ashamed to speak.[94] These men misrepresented, rather than represented, their States;[95] but still those States had obtained through them at least a *locus standi* in national councils, which possibly was better than their former condition of military districts and despotisms.

The people of Virginia, Mississippi and Texas had hoped and prayed for salvation in the presidential election of 1868, in which negro suffrage for the South was a paramount issue;[96] but the Republicans, by a fine piece

93 See editorials in *New York Tribune* of January 19th, 1869, p. 4, and *National Intelligencer* of January 16th, 1869.

94 In a eulogy pronounced in the House of Representatives on March 2nd, 1869, by a Louisiana Congressman over a recently deceased colleague from that State, the eulogist, who said he had known the deceased Congressman "well and intimately," was forced to admit "that he had been able to learn nothing whatever of his antecedents, but believed he was from the State of Maine." See p. 240 of appendix to *Congressional* Globe of March, 1869.

95 Speaking of these carpet-bag Congressmen from the South, the well-known Don Piatt, as Washington correspondent of the *Cincinnati Commercial*, wrote to his paper: "When one (of the carpet-bag Congressmen) makes his appearance, we cannot look at each other without audible smiles that are indecorous * * * I had a talk with one of these gentlemen of the hand baggage last night and tried to convince him that it would be well, just for the appearance of the thing, to cast a vote now and then for the region he claimed to represent. But, no! I found my friend had an intense contempt for one-half of his people, and a deadly hatred for the other half. It was a Connecticut Congressman elected from the South. * * * Better cut the South into provinces and give them military governors to keep the peace until the negro is educated, the white master subdued, and time, the consoler, heals the wounds of war, than thus to make a caricature of representative government and stultify ourselves." See the reproduction of the article in *National Intelligencer* of January 4th, 1869.

96 See second clause of Republican Platform of May, 1868, in McKee's National Platforms and General Blair's letter accepting his nomination as Vice-President (McPherson's History of Reconstruction, p. 369), and his letter to Colonel Brodhead, Idem., p. 380.

of political strategem, in assuring Northern people that negro suffrage was intended only for the South, secured an overwhelming victory, and thus cut off the South's last hope of escape from this calamity.[96a] Thereupon, at the suggestion of leading men in Virginia (including, it is said, the influential name of General Robert E. Lee himself),[97] there was inaugurated in that State what was then called "the new movement," whose motto was "unrestricted suffrage and universal amnesty," in the hope that, by thus linking those two measures together, the latter might be obtained as the price of submission to the former. This movement first took shape in the "Exchange Hotel meeting" in Richmond, Va., on December 31st, 1868, which appointed a "Committee of Nine" to go to Washington and use its endeavors to defeat the disfranchising clauses of the Underwood Convention, then pending before the Virginia people for ratification.[98]

96a *National Intelligencer*, January 15th, 1869.

97 See news item on page four of *New York Tribune* of February 5th, 1869, giving Hon. A. H. H. Stuart as authority for this statement, and see editorial in *National Intelligencer* of February 5th, 1869, giving Hon. William E. Cameron (then editor of *Petersburg Index*), as authority. See, also, news item in *New York Tribune* of January 11th, 1869, giving names of Gen. R. E. Lee, Hons. A. T. Caperton, R. M. T. Hunter, G. W. Bolling, Jas. A. Seddon, Thos. Flournoy, Frank G. Ruffin, Judge Meredith, D. C. DeJarnette and Judge Wm. J. Robertson as prominent Virginians who favored accepting negro suffrage with educational or property qualifications, as price for removing disabilities of all white citizens; and naming Governor Wise, R. T. Daniel, Governor Smith and Robert Ould, as prominent Virginians who opposed negro suffrage on any and all terms and conditions. For a very complete symposium of Virginia newspaper views on the "new movement," see *New York Tribune*, January 14, 1869, p. 5.

98 For a full report of this meeting see *National Intelligencer* of January 5th, 1869. Hon. A. H. H. Stuart, presided; Gen. John Echols, Frank G. Ruffin and James D. Johnson, were appointed a committee of three to name a committee of nine, with Stuart as Chairman, ex-officio, to go to Washington, and secure if possible the right to take a separate vote of the people on the disfranchising clauses of the proposed "Underwood Constitution." The committee of nine, as named, were Jno. L. Marye, Jr., Jas. F. Johnson, W. T. Southerlin, Wyndham Robertson, W. L. Owen, Jno. B. Baldwin, Jas. Neeson, Jas. F. Slaughter and chairman Stuart. In the Exchange Hotel meeting were, also, Thos. Branch, D. C. DeJarnette, Thos. S. Flournoy, Robert Whitehead, N. K. Trout, H. M. Bell, Wm. E. Cameron and Thos. J. Michie. Twenty-eight men signed the address adopted by the

The condition of the Southern people was different from that of the inhabitants of the District of Columbia. They, too, like the whites in the District, would have gladly submitted to disfranchisement for themselves, in preference to negro suffrage; but they were offered no such alternative. With them, under the reconstruction acts, it was negro suffrage anyhow and at all events; and they had simply to determine whether they should continue further a hopeless fight against it, which only prolonged their own disfranchisement.

Of the Radicals, some, like Horace Greeley, partly relented, approved of the "new movement" in Virginia, and advocated negro suffrage and general amnesty going hand in hand;[99] others, like Carl Schurz, then newly elected Senator from Missouri, were still implacable,

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meeting, of whom Staunton furnished five—more than any other place. Richmond came next with four members.

The *National Intelligencer* of January 8th, 1869, says that the disfranchising clauses of the "Underwood" Constitution were even too strong for the stomachs of Thaddeus Stevens, Paine and Bingham; that they were condemned by such papers as the *New York Tribune* and *Times* and the *Springfield Republican* and by Generals Schofield and Stoneman, who said that under them not enough decent men could be found in Virginia to construct a government with. A valuable friend of Virginia, in her efforts to escape from these terrible disfranchising clauses, was Senator Lyman Trumbull, of Illinois, who reported from the Judiciary Committee on February 23rd, 1869, the bill allowing separate votes to be taken by the people on those clauses. General Grant lent most valuable aid to the same purpose. See *National Intelligencer* of January 15th and February 24th, 1869. Messrs. Stewart, of Nevada; Conklin, of New York; and Edmunds, of Vermont, who were on the Judiciary Committee, were said to have insisted upon holding Virginia to the strict terms of the "Underwood" disfranchising clauses, and upon the enforcement of that law in its bitter letter. See *New York Herald* of January 21st, 1869. Chief Justice Chase, Senator Fessenden and Gen. Ben. F. Butler, it is said, befriended Virginia in this matter; *National Intelligencer*, January 12th and 13th, 1869. Although Butler seems to have first suggested that the ratification of the Fifteenth Amendment by Virginia, Mississippi and Texas, be made a prerequisite to their re-admission as States. See *New York Tribune*, January 15th, 1869; see also, note 162 post. It may be of interest to state that the first organization of the Republican party, *eo nomine* in Virginia, is said to have been on January 30th, 1869, at Burkeville, in Nottoway County, at a meeting presided over by Captain Jno. Harding, with H. H. Dyson as secretary, and which adopted resolutions brought in by Dr. Benj. N. Royall, endorsing the "New Movement." See full report of the meeting in *New York Tribune* of February 13th, 1869, p. 3.

99 See files of *New York Tribune* during this period.

saying, as he did in a campaign speech that year in Missouri, that, for negroes, suffrage was of right — for rebels, of grace; and that he was for answering the demands of right first, the request for grace afterwards;[100] both, however, agreed in making much of the Southern surrender on negro suffrage.[100a]

To the moderate Republicans, this surrender was evidence that negro suffrage was not so great an evil after all. But to the Northern Democrats, it was the capture of their chief ally, the complete answer to their strongest argument. What more could they say against negro suffrage, when it appeared to be satisfactory where it had been enforced? How could they rouse people's sympathies for the South's subjection to negro suffrage, when the South itself had ceased to protest against it? Imagine one stretched upon a rack where his friends can hear his voice, but not see his torture; under promise [from his tormentor] of relief from his immediate agony, not knowing whether his friends will ever be able to rescue him, he calls out that he is comfortable and entirely satisfied, and they hearing his words, but not perceiving his anguish, go away and abandon him to his fate. Such is not unlike the experience of the Southern people in regard to negro suffrage in 1869-'70.

The enforced and factitious attitude, upon negro suffrage, of the South under reconstruction, was the greatest blow the Northern opponents of that measure ever had; and their fight in Congress, with the carpet-bagger Congressmen, as the apparent representatives of the South itself, arrayed solidly against them, became utterly hopeless. But still the Radical leaders knew that negro suffrage for the North was extremely un-

100 See report of speech on page 8, *New York Tribune* of January 8, 1869.

100a See *National Intelligencer*, January 16th, 1869; *New York Tribune* of January 19th, 1869.

popular, and they feared to risk it with the people, or even with the succeeding Republican Congress, which was to assemble at Washington within sixty days.

Senator Wilson, of Massachusetts, a Republican of Republicans after the strictest sect, and one of the most zealous advocates of the measure in the Senate, said, in a speech in that body on January 28th, 1868, that insistence upon negro suffrage had cost his party a quarter of a million votes, and that "there is not to-day a square mile in the United States where the advocacy of equal rights and privileges for those colored men has not been in the past, and is not now, unpopular."[101]

On February 3rd, 1868, in urging the immediate consideration and passage of the suffrage amendment, Senator Morton, of Indiana, said:

"There are certain reasons which we can all comprehend why this constitutional amendment, if it is to be acted upon at all this session, ought to be acted upon immediately. The legislatures of most of the States are now in session, * * * and if this amendment is to be passed, I hope it will be passed in time to have the ratification take place this winter. It is not one of those questions that we care about having hang over until the elections of 1870 or 1872. * * * Unless we act upon this amendment speedily, it cannot be ratified this winter or during the course of the coming spring, and the final adoption of it may be put at hazard."[102]

On the same day and in the same connection, Senator Drake, of Missouri, (he who had threatened impeachment for the entire Supreme Court if they should ven-

101 *Congressional Globe* of January 28th, 1869, p. 672.
102 *Congressional Globe* of February 3rd, 1869, p. 824.

ture to hold any of the reconstruction acts unconstitutional)[103] said:

"This constitutional amendment can only be disposed of by a two-thirds vote; and it may be that in the next Congress (which was to convene in thirty days, and was Republican by much more than two-thirds) there may not be a two-thirds vote to pass this constitutional amendment."[104]

A few days later, on February 5th, 1869, Senator Sumner delivered, in the Senate, an elaborate and impassioned speech, in which he advocated the passage of the Boutwell bill, establishing negro suffrage everywhere by act of Congress; first, because he said it was constitutional, and he repudiated the declaration on the subject in the recent National Republican platform; second, because he said it was most doubtful if the people would ever ratify a constitutional amendment establishing negro suffrage; and, third, because he said the Republican party was in urgent need of the negro vote, and the party's need was the country's need. To quote his exact language, he said:

"Beyond all question, the true rule under the National Constitution * * * is that whatever you enact for human rights is constitutional. * * * The hesitation to present the *amendment* is increased when we consider the difficulties in the way of its ratification. I am no arithmetician; but I understand that nobody has yet been able to enumerate the States whose votes can be counted on to assure its ratification. * * * The same thing may be accomplished by an Act of Congress without any delay —without any uncertainty. * * I do not depart from the proprieties of this occasion when I show how completely

103 See note 56, supra.

104 *Congressional Globe* of February 3rd, 1869, p. 824.

the course I now propose harmonizes with the requirements of the political party to which I belong. Believing most sincerely that the Republican party, in its objects, is identical with country and with mankind, so that in sustaining it I sustain these comprehensive charities, I cannot willingly see this agency lose the opportunity of confirming its supremacy. You need votes in Connecticut, do you not? There are three thousand fellow citizens in that State ready, at the call of Congress, to take their place at the ballot box. You need them also in Pennsylvania, do you not? There are at least fifteen thousand in that great State waiting for your summons. Wherever you most need them, there they are; and be assured they will all vote for those who stand by them in the assertion of equal rights."[105]

The next day the *New York Herald* spoke of the hopelessness of obtaining the ratification of a constitutional amendment to establish negro suffrage; for, it said, in an editorial on the subject:

"Upon a question of negro equality or no negro equality, placed distinctly before the whole people, we are firm in our conviction that the affirmative would be voted down by an overwhelming majority."[106]

Finally, on February 26th, 1869, when it was suggested in the Senate to send the amendment back to a conference committee, because the words "and hold office" had been stricken out, those in charge of the amendment made a desperate appeal against further delay, saying that it was now or never that it could ever be adopted. Mr. Frelinghuysen said that it could not possibly obtain the necessary votes in the new Congress about to assemble on March 4th, 1869, although it was well known that that Congress would be more than two-

105 *Congressional Globe* of February 5th, 1869, p. 904.
106 See editorial on page 6 of *New York Herald* of February 6th, 1869.

thirds Republican. And Mr. Stewart, who had charge of the measure in the Senate, reiterated the same opinion, and in a despairing appeal to the Republican Senators, exclaimed:

"Your legislatures are waiting now—ready to act. Send it to another conference and the whole thing is lost."[107]

Thus, under whip and spur, did the Republican Senators on February 26th, 1869, five days before the expiration of Congress, adopt an important constitutional amendment,[107a] which their own party had just pledged itself against, which the people had again and again declared against, which Congress practically admitted that the people were still opposed to, and to which it believed that the incoming Congress (to convene within a week, and dominated overwhelmingly by their own party freshly elected by the people) was also opposed.

That the inspiring force which took the Fifteenth Amendment through Congress was the desire to perpetuate the Republican party in power, the debates on that measure leave no room to doubt. In reporting the measure to the House from the Judiciary Committee, Mr. Boutwell frankly admitted that party considerations were the controlling motive.[108]

That many Senators and Representatives were sincere in believing this a patriotic duty, is more than probable, for Mr. Boutwell announced a creed that was accepted

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107 *Congressional Globe* for February 26th, 1869, p. 1629.

107a President Grant said it was "the greatest civil change and constitutes the most important event that has occurred since the nation came into life." See his special message of March 30, 1870.

108 See *Globe* of January 23rd, 1869, page 555 and seq., and *New York Herald*, January 28th, 1869, p. 10. Schuyler Colfax, in his letter accepting the Republican nomination for Vice-President in 1868, frankly admitted that negro suffrage was forced upon the South as a political measure and sought to justify it as a necessary step to perpetuate the Republican party and keep the "rebels" from political power. See his letter in McPherson's History of the Reconstruction, p. 366.

by many at that time, when he said in his speech introducing this amendment in the House, that "this nation is indebted to the Republican party for its existence"[109] —an idea elaborated in the Senate by Mr. Sumner in his speech just quoted from.

But, that these men were also sincere in their protestations of a compelling sense of justice to the negro as a man and brother, entitled to the right to vote, as an inalienable natural right, like that of life and liberty, can hardly be accepted when we find them only too willing to exclude from that inalienable right Indians and Chinese, whose political affiliations were not so well ascertained. It is almost shocking to find, among those who would exclude these races, the names of Sumner, Morton and Fessenden[110] who, with many others, insisting upon indiscriminate suffrage for all citizens regardless of race, yet succeeded in restricting the doctrine to the white and black races by adopting the timely suggestion of Mr. Stewart, that the red and yellow races might, by manipulation of our naturalization laws, be *prohibited from becoming* citizens.[111] Thus they held that, although suffrage be a natural right, belonging to

109 See Boutwell's speech and Colfax's letter cited in last note. Governor Harriman, of New Hampshire, in his address as chairman of the State Republican Convention of that state on January 7th, 1869, said that subduing the rebellion ought to give the Republican party twenty-five years lease of power and freeing the slaves twenty-five years more, and he thereupon called upon Congress to pass the pending suffrage amendment so that the party could be insured to get the lease of power it was entitled to. See *New York Herald*, January 9th, 1869.

The ingenuousness of some of the party worshippers was at times almost amusing. The Grand Council of the Union League of America, at its meeting in Alabama in April, 1867, endorsed Congressional Reconstruction and negro suffrage, but generously favored restoration of suffrage to all "rebels" who would vote the Republican ticket and support for office only those who had always been loyal (practically negroes and carpet-baggers exclusively), insisting on continued disfranchisement and *confiscation of property* for all who would not accept these terms. See McPherson's History of Reconstruction, p. 249.

110 *Globe* for February 9th, 1869, p. 1032 and seq.: *New York Herald*, February 10th, 1869, p. 3.

111 *Globe* for February 6th, 1869, p. 938.

man like that of life and liberty, to deprive him of which were a heinous sin, yet there was no impropriety in restricting this natural right to men who were citizens, *reserving the right to say who might become citizens!* This was not surprising logic in that class of men who had, it is said, on one occasion, declared by formal resolution: "First, that the voice of the people is the voice of God; and, second, that *we* are the people!"

Mr. Pomeroy, a Senator from Kansas, was more consistent in following the negro suffrage doctrine to its logical conclusion; and, though a Radical of Radicals, he, in disgust, refused finally to vote for the Fifteenth Amendment, because it did not provide for *female* suffrage also.[112]

A detailed history of the parliamentary progress of the amendment through Congress would not be interesting. The Judiciary Committee of the House, to which were referred, on December 7th, 1868, the Kelley Joint Resolution No. 363, proposing a constitutional amendment on suffrage, and the Boutwell Bill, No. 1463, establishing negro suffrage by act of Congress, did not report till January 11th, 1869, when it brought in substitutes for each, in which some slight changes were made; the substitute for the resolution was numbered 402, and, for the bill, 1667.[113]

Bill 1667, which may still be called the Boutwell Bill, was discussed elaborately in the House, and, informally, in the Senate; but the contention that suffrage in the States could be regulated by act of Congress was too bald a proposition to obtain much of a following. In vain did Mr. Sumner insist that whatever was for the interest of humanity was constitutional, and that human-

112 Idem., February 26th, 1869, p. 1641.

113 Idem., January 11th, 1869, p. 286.

ity and the Republican party were identical;[114] the friends of the measure were never strong enough to risk a vote on it, and it was ultimately dropped without ever getting out of the House.

Joint Resolution No. 402, which was in substance exactly, and in language almost, the same as the Fifteenth Amendment, was passed by the House and sent to the Senate on January 30th, 1869,[115] and finally abandoned for Senate Bill No. 8, which ultimately (with the words "and hold office" stricken out) became the Fifteenth Amendment itself.

In the meantime the Senate had been considering a suffrage amendment of its own. It will be remembered that almost on the first day of the first session of this Congress, Senator Henderson, of Missouri, had introduced in the Senate a joint resolution, known as Senate Bill No. 8, proposing a suffrage amendment, which had been referred to the Senate Judiciary Committee; this was on March 7th, 1867, only five days after the passage of the first reconstruction act by the previous Congress.[116] We have the word of Senator Fessenden, of Maine, who was Chairman, on the part of the Senate, of the Joint Committee on Reconstruction which reported the reconstruction acts, that the Reconstruction Committee was itself in favor of proposing an amendment to establish negro suffrage, and refrained from doing so only because they did not think it possible to have it either passed by Congress or ratified by the States.[117] Doubtless it was for this reason that Mr. Henderson's Resolution No. 8, after being introduced by him, was allowed to slumber untouched in the pigeon holes of the

114 As extravagant as this may appear, it is substantially the exact language of Mr. Sumner's speech in the Senate of February 5th, 1869. See *Globe*, p. 904.

115 *Globe*, p. 745.

116 *Globe*, p. 13.

117 *Globe* for February 9th, 1869, p. 1033.

Judiciary Committee for nearly two years. But, for reasons above set forth, a suffrage amendment had now become a politial necessity for the dominant party; the opposition to negro suffrage had been greatly weakened by the operation of the reconstruction acts in the South; and, although it was still certain that the Northern people were not yet reconciled to it, the last Congress which would ever agree to propose it was rapidly approaching its end, and, for those who were bent upon negro suffrage, it was, as they themselves said, "now or never."[118]

Accordingly, the Henderson amendment of March, 1867, was fished out of its pigeon hole and favorably reported to the Senate on January 15th, 1869, by Senator Stewart, of Nevada, from the Judiciary Committee. Thenceforward, negro suffrage was in charge of Mr. Stewart in the Senate, and Mr. Boutwell in the House.

This resolution, unlike the one proposed by the House, secured the negro against discrimination in the right to hold office, as well as in the right to vote;[119] and many senators and representatives (notably Senator Wilson, of Massachusetts) were particularly insistent upon the retention of the words "and hold office," in view of recent occurrences in Georgia, where all the negro members of the Legislature had been excluded from the bodies to which they had been elected, on the ground that the right to vote, given them by the reconstruction acts, did not carry with it the right to hold

118 Almost every Senator or Congressman who spoke in favor of the Fifteenth Amendment urged its immediate adoption by Congress and reference to existing radical Legislatures, on the ground that never again would it have a chance of either passing Congress or being ratified by the State, and this, notwithstanding the fact that the new Congress about to assemble in a few days was well known to be more than two-thirds Republican, but it was the moderate Grant Republicans, and not the Radicals, who were to dominate the new Congress and Republican State Legislatures.

119 *Globe* for January 23rd, 1869, p. 542.

office—a position which the Georgia courts had fully sustained. It was urged in Congress that, if the proposed amendment should secure only the right to vote, the negroes would be everywhere excluded from holding office, and so the Senate insisted upon inserting the words "and hold office," and with this and some other amendments, returned the first resolution to the House on February 10th, 1869.[120]

General Logan, then a Representative from Illinois, protested against the insertion of these words. He said there was no necessity for them, and that recent events in Georgia had caused members to lose their heads. That the right to say who should hold office was properly left, by the Constitution, to the States, and they would never consent to surrender it; all that there was any occasion for, was to give the negro the right to vote, "And" said

120 *Globe*, pp. 1044 and 1244. Senator Wilson, of Massachusetts, was particularly bitter and insistent upon retaining the words, "and hold office." He said, speaking of the recent expulsion of negro members from the Georgia Legislature: "The black men, in their magnanimity and generosity, * * * * * allowed unrepentant and unforgiven traitors to sit in the Legislature with them, and the moment those men got into power they hurled the black man out of the Legislature. * * * * * Do not tell me, sir, that the right to vote carries with it the right to hold office. It does no such thing. If there is nothing said about it, the fair inference is that it does; but if there is a provision in a State Constitution otherwise, silence does not annul or overthrow that constitutional or legal declaration. No man in the world has a right to hold office. The people have a right to vote and they have a right to put terms and conditions to the offices that they make. Mr. Webster said in the Constitutional Convention of Massachusetts in 1820, that no man had the right to hold office, but the people had the right to define, and make the terms and conditions upon which offices should be held. I do not believe in anybody's right to make terms and conditions founded upon race or color, * * * * * but many of the States have done it, and silence will not overthrow what they have done. I believe, however, that if the black men have the right to vote, they and their friends in the struggle of the future will achieve the rest. Therefore, I am willing now to give them the right to vote, if I cannot get for them the right to be voted for. I will take that if I cannot get any more." *Globe* for February 26th, 1869, p. 1627. This speech was delivered after the Conference Committee had stricken out the words "and hold office" from the proposed amendment, the effect of which, it was generally conceded, would be to leave the States as free as ever to exclude negroes from the right to hold office, although they could not exclude them from the right to vote. See to same effect General Logan's speech in the House. *Globe*, February 20th, 1869, p. 1426.

he, "when we give them the right to vote, they will take care of the right to hold office."[121] He, therefore, moved to strike out the words "and hold office." On this motion the vote stood 70 yeas, 95 nays, and 57 not voting.[122] Of those not voting, many were known to favor the Logan amendment and, thus, it became very doubtful that, with the words "and hold office" retained, the amendment could ever obtain the requisite two-thirds vote in the House. This view was not modified by the fact that, later on, the proposed amendment did pass the House by two-thirds majority with the objectionable words about holding office retained; because, it had first, by aid of Democratic votes, been so weighted down by certain objectionable features, introduced by Mr. Bingham, of Ohio, that it was well known it could not, in that form, get through the Senate,[123] and as anticipated, the Senate did refuse to accept it in the form in which it was sent back by the House. The proposed amendment was then sent to a joint committee of conference, composed of Messrs. Stewart, Conkling and Edmunds from the Senate, and Boutwell, Bingham and Logan from the House.[124] This Conference Committee considered the amendment for several days, and it was, apparently, made clear to them by Mr. Logan that the measure could not succeed with the words "and hold office" retained; they, therefore abandoned the House Boutwell Bill No. 402, and adopted the Senate Henderson Bill, No. 8, struck out the words "and hold office" in deference to the House, and, in this form (the precise form in which the Fifteenth Amendment now is), it was (Mr. Edmunds alone objecting) reported by the Con-

121 *Globe*, February 20th, 1869, p. 1426.
122 Idem., p. 1428.
123 Idem., p. 1428; *New York Herald*, February 21st, 1869, p. 3, and *New York Tribune*, February 22nd, 1869, p. 1.
124 *Globe*, February 23rd, 1869, pp. 1470 and 1481.

ference Committee to their respective Houses on February 23rd, 1869. It was passed by the House on February 25th, and by the Senate on February 26th, 1869, in the exact form reported by the Conference Committee.[125]

During the course of the debate, the advocates of the measure were confronted with the pledge against such an attempt, contained in the National Republican platform of the last spring, and they were charged by the opponents of the measure in Congress with betraying the people. Many radical newspapers, particularly in the West, where opposition to negro suffrage was very strong, warned their party representatives against this breach of good faith.[126] But, to all this, the Radical leaders paid little attention. To the controlling members of the Thirty-ninth and Fortieth Congresses—men who had impeached the President, passed the reconstruction acts, and prohibited the Supreme Court from questioning their validity—a mere plank in a political platform was not so much as a straw in their path. They were challenged almost daily by their opponents to allow the people to be heard at the polls on the question of negro suffrage. Mr. Hendricks, of Indiana, in the Senate and Mr. Woodard, of Pennsylvania, in the House, offered resolutions to submit the amendment to Legislatures to be thereafter chosen, and Mr. Dixon, of

125 *Globe*, pp. 1564 and 1641. Senator Wilson, of Massachusetts, a sincere negrophilist of the first water, was bitterly disappointed that his Radical brethren had consented to strike out the words prohibiting discrimination against negroes in the matter of office-holding, and, looking to the future with prophetic eye, he said he feared that people "will say that we were not actuated by a sense of justice, but by the love of power; that we are willing that citizens of African descent shall vote for us, but shall not vote for citizens of their own race." See *Globe* for February 17th, 1869, p. 1307. This fear on the part of the worthy Senator does not appear to have been wholly groundless.

126 See under dates of this period, *Albany Evening Journal*, *Chicago Post*, *Chicago Tribune* and *Evansville* (Indiana) *Journal*, all of which were ranked as "Radical." See, also, *New York Herald*, *New Haven Register*, and an editorial of March 4th, 1869, in the *National Intelligencer*.

Connecticut, in the Senate, to submit it to Conventions in the several States, instead of Legislatures; but the managers of the measure were not to be caught in any such snare as that. They well knew that the people were opposed to the measure, and that, as Senator Stewart said, their Legislatures were waiting then ready to act. "Send it to another Conference [or he might have added, 'let the people have a chance to be heard upon it'], and the whole thing is lost."[127]

At the time of the final adoption of the Fifteenth Amendment by the House, thirty-four States were represented therein, counting Georgia, whose Senators had been excluded from the Senate. Virginia, Mississippi and Texas were still military districts. Had those three States been admitted, the total number of representatives would have been 246, of which two-thirds would amount to 164. The total votes to which the actually admitted States were entitled, were 226, of which two-thirds made 151. But the seats of members of the Sixth Congressional District of Georgia,[128] and of the Second Congressional District of Kentucky,[129] and Louisiana,[130] respectively, were vacant; this reduced the actual membership of the House to 223, of which two-thirds would amount to 149; the final vote on the amendment, however, as recorded, was 144 yeas, 44 nays, 35 not voting.[131] If the six Georgia votes be excluded, there would have been 217, of which two-thirds would be 145; but, as a matter of fact, the six Georgia Representatives were all in the full participation of their privileges; at least, five of them were actually present, of whom three voted for the amendment, two against it and all six were

127 See note 107, supra.
128 *Globe*, December 7th, 1868, and postea, pp. 675 and 677.
129 McPherson's History of the Reconstruction, p. 348 and note.
130 *Globe* appendix, for March 2nd, 1869, p. 240.
131 *Globe* for February 25th, 1869, p. 1564.

formally included in the official record of the vote. The Speaker announced the vote 145 yeas, and so it is generally stated; but, there were only 144 yeas, as the record clearly shows, and the Speaker, in announcing 145, counted his own vote twice, as the record also shows.[132]

In the Senate, when the Amendment was finally adopted, there would have been seventy-four votes, had all thirty-seven States been admitted. Excluding Virginia, Mississippi and Texas, left sixty-eight votes. But, although Georgia had fully complied with the requirements of the reconstruction acts, and been fully admitted to representation in the House, her Senators were, in spite of the protest of Senator John Sherman, of Ohio,[133] arbitrarily excluded from the Senate, or rather suspended, pending an investigation into the affairs of Georgia.[134] This left sixty-six Senators actually in the body, of which two-thirds would make forty-four. Upon the final passage of the Amendment, on February 26th, 1869, the vote stood, as recorded, yeas 39, nays 13, not voting 14.[135] As a matter of fact, a number of the Senators not voting (including Senators Edmunds, of Vermont, and Pomeroy, of Kansas), were present in the Senate chamber, at the time the vote was taken, and participated in the debate shortly before the vote was taken, and again, immediately afterwards, in the discussion of its announcement.[136]

It being manifest that the affirmative vote was five less than two-thirds of the actual Senate, to say nothing of the excluded votes of Georgia, the announcement by the President pro tem, Benj. F. Wade, of Ohio, that

132 Idem.
133 *Globe* for December 7th, 1868, p. 2 and seq.
134 Idem., January 25th, 1869, p. 568. The resolution of exclusion was reported to the Senate, in the midst of the Suffrage debate, by Senator Stewart, who had charge of the Suffrage Amendment!
135 *Globe* for February 26th, 1869, p. 1641.
136 Idem., p. 1642; *New York Tribune*, February 27th, 1869, p. 1.

two-thirds had voted for the Amendment, was immediately challenged by Senator Garrett Davis, of Kentucky.[137] It was pointed out by him and by Senator Hendricks, of Indiana, that the Constitution expressly required two-thirds of the Senate, not merely two-thirds of those present, as in the case of ratifying a treaty, or deciding an impeachment. Senator Trumbull, of Illinois, said that he had taken the same ground when the pro-slavery amendment of 1861 was adopted; but that, as the Democrats had overruled him then, he intimated that he was for giving them a dose of their own medicine now; and he insisted that two-thirds of those present, though less than two-thirds of the Senate, as specified by the Constitution, should suffice to pass the Amendment, and so the presiding officer continued to hold.[138] Senators Edmunds and Pomeroy participated in this discussion, and though they did not declare themselves, one might reasonably suppose from their remarks that they did not agree with the ruling of the chair.[139]

Thus did the Fifteenth Amendment pass Congress, by less than two-thirds affirmative vote of either the House or the Senate, in the teeth of the express requirement of the Constitution that it shall have "two-thirds

137 When Senator Davis raised the point that two-thirds of the Senate had not voted for the Amendment, Hon. James M. Ashley, a Radical Congressman from Ohio, having come over to the Senate Chamber from the House, was standing just in front of Senator Davis, and grinned at him in an offensive and contemptuous manner for making the point. This nettled the Senator, who speaking at the Congressman, exclaimed, in the midst of his argument: "Chuckleheads may laugh; interlopers may laugh; but the proposition that I make is technically, logically and constitutionally true." See *Globe*, February 26th, 1869, p. 1641; *New York Herald*, February 27th, 1869, p. 3.

138 Senator Benj. F. Wade, who then presided over the Senate, although a man of great ability, was notoriously ignorant of everything pertaining to parliamentary law. His erroneous rulings caused a great row between himself and General Benj. F. Butler a few weeks previous at the counting at the electoral vote, and were constantly the occasion of great confusion in the Senate. See *Globe* of that period and *New York Tribune* of February 18th, 1869, p. 1.

139 *Globe* for February 26th, 1869, p. 1641-'2.

of both Houses," as distinguished from impeachments, etc., for which the same instrument requires only "two-thirds of those present." It is believed that the Supreme Court has never passed upon this question.[140]

If the passage of this Amendment through Congress was unseemly, its ratification by the State Legislatures was, in several instances, at least, nothing short of scandalous.

The Amendment passed the Senate rather late Friday night, February 26th, 1869. The next morning, as soon as the enrolled resolution was signed by the presiding officer, it was telegraphed by Congressman Sydney Clarke to the Legislature of Kansas, then on the point of adjournment. His telegram, entirely unofficial, was received by the Legislature during its afternoon session, and that very evening, in less than twenty-four hours after the Amendment had passed Congress, long

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140 Compare Sec. 6, Art. I., and clause 2, Sec. 2, Art. II., of the Federal Constitution, with Art. V. of that instrument. Mr. Sumner apparently thought that two-thirds of the entire Senate, as actually constituted, was necessary to pass an amendment to the Constitution, as he had introduced in the Senate a joint resolution to that effect on February 4th, 1865. See McPherson's History of the Rebellion, p. 591. That this had been the view of Senator Morton, of Indiana, would seem fully established by his remarks on the subject on February 17th, 1869, reported on page 1292 of *Congressional Globe*. In fact, the objections raised by Senators Davis and Hendricks to the sufficiency of the final vote on the Fifteenth Amendment by the Senate do not appear to have been seriously controverted by any Senator at the time. That the House of Representatives had misgivings as to the sufficiency of their final vote would seem to have possibly been indicated by their adoption on July 11th, 1870 (nearly four months after the ratification of the Fifteenth Amendment had been proclaimed), of the resolution of Mr. Ferris, that the Fourteenth and Fifteenth Amendments were valid as parts of the Federal Constitution, and must be recognized as such by all branches of the Federal, State and Territorial governments. (See McPherson's History of Reconstruction, p. 583.)

It may be of interest to state that upon the final passage of the Thirteenth Amendment the vote in the Senate stood 38 ayes, 6 noes, total 44; and, in the House, 119 ayes, 56 noes, and 8 not voting, total 183; and upon the final passage of the Fourteenth Amendment, the vote stood in the Senate, 33 ayes, 11 noes, and 5 not voting, total 49; and in the House, 138 ayes, 36 noes, and 10 not voting, total 184. These figures are taken from McPherson's History of the Rebellion, p. 257, Thorp's Const. History of the U. S., Vol. III., pp. 138 and 150, and McPherson's History of the Reconstruction, p. 102. I have not personally verified them by the record.

before it had been certified to the States for action, and before any one in Kansas had even seen it (other than Clarke's telegraphic copy), the Legislature of that State ratified it.[141] The people of Kansas, at the polls, about a year previous, had voted against negro suffrage by a majority of two to one.[142]

Senator Stewart, of Nevada, was, if anything, more anxious than Congressman Clarke, of Kansas, to obtain action by existing Legislatures, before the people could make themselves heard. The State of Nevada had very recently adopted a Constitution, which restricted suffrage to "white" men. The people of that State, like those of California and Oregon, were overwhelmingly opposed to an extension of the elective franchise to any but white men—not so much for fear of the negro, as of the Chinese vote. It was generally conceded among the Radical press, that Nevada would certainly reject the Amendment;[143] but they underrated the resources of their own generals. Late Friday night, as soon as the presiding officer had announced that thirty-nine votes was two-thirds of a Senate of sixty-six members, Senator Stewart, impressed with the fact just stated by him to the Senate, that *their* Legislatures were waiting to ratify the Amendment, and that if it was not done by them, and at once, the whole thing would be lost,[144] caused the Secretary of the Senate, without even waiting for the resolution to be enrolled or signed, to telegraph it to the Legislatures of Nevada and Louisiana, to which telegram he and three others added a message urging the immediate ratification by the Legislatures. This remarkable dispatch did not reach Nevada till the

141 *New York Tribune*, March 1st, 1869, p. 1; Journal of House, Kansas Legislature for 1869, p. 911 and seq.

142 *Tribune Almanac* for 1868, p. 62.

143 See *New York Tribune* of February 22nd and 27th and March 5th, 1869.

144 *Globe* for February 26th, 1869, p. 1641.

next morning, Saturday, when the Legislature at once endeavored to comply with its instructions, but they were not quite so docile as in Kansas, and did not succeed until Monday morning, March 1st, 1869, when they ratified the Amendment against a strong written protest of the minority, including Republicans and Democrats. This protest insisted, among other things, that the Amendment had not received the Constitutional two-thirds majority in the Federal Senate; that the Legislature of Nevada had, as yet, no official knowledge of the proposed amendment (the telegraphic report of it being, as it afterwards transpired, materially incorrect); that the people of Nevada should be given an opportunity to be heard upon it, and that the people, by voting the Republican ticket for President, had, just within a few months past, ratified the declaration of the Republican platform of May, 1868, that the control, by loyal States, of their suffrage laws, should not be interfered with. But all this was as baying at the moon, and Nevada was recorded as the second State ratifying the Fifteenth Amendment.[145]

The records of the Legislature of Missouri fail to show how that body was informed of the passage of the Fifteenth Amendment in Congress; the newspapers of the day said some one had heard of it by telegram.[146] This was enough; accordingly, that Legislature, early Monday morning, March 1st, 1869, suspended their rules and ratified what they thought was the Amend-

145 *New York Tribune*, March 1st, 1869, p. 1; Journal of Nevada Senate, 1869, pp. 228 and 249-'50. That this action of the Nevada Legislature was not *quietly* submitted to, at least in the Senate, would seem to appear from the following resolution introduced in the House on Saturday, February 27th, 1869, the day Senator Stewart's telegram arrived: "*Resolved*, That a committee of three be appointed on the part of the Assembly, with instructions to confer with members of the Senate, and request them not to talk so loud in debate!" See Nevada Assembly Journal of 1869, p. 228.

146 *Cincinnati Gazette*, March, 1869; *National Intelligencer*, March 10th, 1869.

ment,[147] but it turned out, after they had adjourned, that the thing they ratified was not the Amendment at all, and so they had to ratify all over again when they next assembled.[148] The year before, in 1868, the people of Missouri at the polls, had rejected negro suffrage by over 18,000 majority.[149]

And so, the program was carried out,[150] until, in less than thirty days from the passage of the Amendment through Congress, and, for the most part, before it had even been certified to the States, it had been ratified, under whip and spur, by the Legislatures of fifteen States, the people of several of which had, at the polls, within a few months past, voted by large majorities against negro suffrage, though in several cases the ratification was gotten through the Legislatures by a majority of barely two or three votes—truly the country was going to be saved by the Radicals, in spite of itself!

On March 4th, 1869, General Grant was inaugurated President. His address was anxiously awaited by the advocates of the Amendment, for such was his prestige at that time that truly "one blast upon his bugle horn were worth a thousand men." It was known that he had not been an advocate of negro suffrage. In his acceptance of the nomination for President, he had not referred to it. During the winter of 1868-'9, while the

147 Journal of Missouri Senate, 1869, p. 433-'4, and of House, p. 614, 616 and 618.

148 *Cincinnati Gazette*, March, 1869; Documentary History of the U. S. Constitution, p. 853. It seems that the Kansas Legislature, also, thought best to reratify the Amendment when they met again. See Documentary Hist. U. S. Constitution, p. 868.

149 *Tribune Almanac* for 1869, p. 85.

150 Some of the newspapers of the day referred to it as "changing the Constitution by telegraph." See *Cincinnati Gazette*, March —, 1869; see, also, *New York Tribune* of March 3rd, 1869, which rather felicitated the country upon the rapidity of the action.

amendment was pending before Congress, he had been plied in vain by its advocates for an encouraging word.[151] The National Colored People's Suffrage Convention, held that winter in Washington, under the auspices of Frederick Douglass, and which, a year before, had unsuccessfully appealed to President Johnson for support,[152] now sent a Committee to wait on General Grant. He did not rebuff them as Johnson had done; but he gave them little comfort, merely telling them that he hoped they would show themselves worthy of all they asked.[153] Governor Cox, of Ohio, whom Grant appointed his Secretary of the Interior, was an open and avowed opponent of negro suffrage.[154] The very platform on which Grant was elected had, in its second article, declared against a suffrage amendment.[155] All of this was very disconcerting, but could not Grant be convinced, as the Radical leaders in Congress were, that negro suffrage was a national necessity? This was the occasion of much anxiety to its advocates.

But Grant, like most true soldiers of the war, was weary of civil strife. It was then believed by many, that when suffrage should be universally accorded to the negroes, they would divide up their votes ultimately, and, at least to an extent, become amenable to conservative influences. The people were assured that, with the passage of the Fifteenth Amendment, the "negro question" would be forever answered.[156] What the country, North and South, most needed, and earnestly prayed for, was peace. Such patriots as Generals Lee, Gordon, Forrest and Hampton, whose people would be affected

151 *New York Herald*, February 2nd and 5th, 1869, p. 7.
152 McPherson's History of Reconstruction, p. 52 and seq.
153 *New York Herald*, January 20th, 1869, p. 3.
154 *National Intelligencer*, March 11th, 1869, p. 3.
155 McKee's National Platforms, p. 136.
156 *New York Tribune*, February 27th, 1869, p. 4. See, to this effect, speech of Senator Oliver P. Morton, February 8th, 1869, *Globe*, p. 990.

by negro suffrage more than any others, were said to be willing to submit to it, in order to obtain general amnesty and a restoration of political rights for their people.[157] Could not Grant do the same? He, therefore, in his inaugural expressed the hope that, by the ratification of the Fifteenth Amendment, a step would be taken towards the realization of that peace for which all good men prayed.[158] But he apparently regarded negro suffrage as only a choice of evils:

"I never could have believed," said President Grant, to a friend, "that I should favor giving negroes the right to vote, but that seems to me the only solution of our difficulties."[159]

Grant, however, was not very enthusiastic about the amendment accomplishing what was claimed for it; and, in his annual message, of December, 1869, while that amendment was still pending before the States, he did not even mention it.[160]

On March 17th, 1869, the Legislature of New York, whose people were well known to oppose equal suffrage for negroes, ratified the amendment by a majority of two in the Senate. At that time, there was pending before the people of that State a proposed amendment to the State Constitution, granting equal suffrage to negroes. Later on, in the same year, the vote was taken, and negro suffrage was defeated at the polls by over 32,000 majority. To give effect to their views, the people of New York, at the same time, elected new members

157 *New York Tribune*, January 11th, 1869, p. 1; *National Intelligencer*, February 1st, 1869, p. 2.

158 See Grant's First Inaugural, in McPherson's History of Reconstruction, p. 416.

159 Richardson's Life of Grant, p. 527. See also *New York World*, January, 1869; *National Intelligencer*, January 7th and 15th, 1869, and *New York Tribune*, January 6th, 1869.

160 For full copy of this message see McPherson's History of Reconstruction, p. 533, et seq.

of their Legislature, who at once rescinded the former Act of Ratification, and certified their rescinding Act to the Secretary of State at Washington. But, notwithstanding that three-fourths of the States had not yet ratified, and their votes on ratification were not yet announced, it was held that the repealing Act of New York was void, and that the vote ratifying the proposed amendment was irrevocable. Thus New York was counted for the Amendment.

The Legislature of Ohio, on the other hand, voted on May 4th, 1869, to reject the Amendment, but, later on in the year, a change having been effected in the Legislature, that vote was rescinded and the amendment ratified by a majority of one in the Senate and that action certified to the Secretary of State at Washington. In this case it was held that the repealing Act was valid, and that an *adverse* vote of a State, upon the ratification of a proposed amendment, could at any time be changed! And so, Ohio also was added to the list of ratifying States, though the year before the people of that State had, at the polls, rejected negro suffrage by 50,000 majority.

In Indiana, the action was still more arbitrary. When news came of the passage by Congress of the Fifteenth Amendment, the Radicals, who had a majority of both Houses of the Legislature, attempted to rush through a ratification as had been done in Kansas, Nevada and other States. The Democrats protested, and insisted that time should be taken to hear from the people on the question; but all in vain. Thereupon, on the morning of March 4th, 1869, when, according to program, the ratification was to have been put through, seventeen Senators and thirty-six Representatives resigned, thus breaking a quorum. It was urged by some, that the remnant of both Houses proceed to ratify and not let

the record show the lack of quorum, but the Governor would not agree to the fraud; he, therefore, ordered a special election to fill the vacancies and called an extra session to meet in May. All of the resigning members were returned but one, and, in this and other ways, the people made their opposition to the amendment so manifest, that it was hoped the Radical members of the Legislature would not attempt again to disregard their wishes.[160a] But they were found to be obdurate, though several of their men finally deserted and came over to the opposition. On May 13th, 1869, the Senate took a vote on the resolution to ratify, but, less than a quorum voting, those present and not voting were counted to make a quorum, although the presiding officer of the United States Senate, upon the passage of the amendment by that body, had just refused to count as present those not voting, lest it show the affirmative vote to be less than two-thirds even of those present.

The next day, May 14th, 1869, the ratification resolution in the Indiana Legislature was taken up by the House. In order to prevent being counted as present, as was done in the Senate, forty-two members had again resigned on the day before, thus reducing the membership to less than two-thirds, which, under the Constitution of Indiana, was necessary to make a quorum.[160b] But the speaker showed himself equal to the occasion by ruling that, while the State Constitution did specify two-thirds as necessary to make a quorum for *ordinary* business, it did not follow, that more than one-half was necessary for *extraordinary* business, such as ratifying an amendment to the Federal Constitution! He, therefore, an-

160a *National Intelligencer*, March 26th, 1869.

160b Indiana Constitution, article 4, sec. II., which says: "Two-thirds of each House shall constitute a quorum to do business."

nounced the amendment as ratified, and the name of Indiana was duly added to the list of ratifying States.[161]

These are examples of some of the methods employed to obtain a ratification of the amendment in the twenty-one Northern States, whose votes were counted for it. In the South, simpler and more drastic methods were pursued. In seven of the Southern States, the question of securing negro suffrage in the Federal Constitution was practically left to the negroes, under the tutelage and leadership of their carpet-bagger leaders, to determine for themselves; while, in Virginia, Mississippi and Texas, the ratification of the amendment was made a condition of the enfranchisement of their white men and their readmission as States to Congress.[162]

That any of the ten reconstructed Southern States really favored the Fifteenth Amendment, no one ever

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161 McPherson's History of Reconstruction, p. 490; Journals of Indiana Legislature for 1869; Senate, p. 474 and seq., and House, p. 599 and seq.; *New York Herald*, March 10th, 1869; *Cincinnati Gazette*, March, 1869; *National Intelligencer*, March 26th, 1869, and contemporaneous State newspapers. In an effort to correct this defective ratification by Indiana, Senator Morton, of that State, about March 17th, 1869, introduced a bill in Congress providing that a majority of the several Houses of any Legislature should be a quorum for the ratification of any proposed amendment to the Federal Constitution, regardless of the provisions of the State Constitution on the subject. See *National Intelligencer* for March 19th, 1869. Thus did the authors of the Fifteenth Amendment seek, by belated, retroactive and probably unconstitutional Acts, to bolster up the obvious and well known defects in the passage and ratification of this Amendment. So notorious was the fact that many, if not most, of the Legislatures of the Northern States had acted in defiance of the will of the people in ratifying the Fifteenth Amendment, that, in order to prevent agitation of the matter, the House of Representatives, on May 8th, 1870, passed a resolution, introduced by Mr. Bingham, of Ohio, making it a crime in the members of any State Legislature to propose or attempt to withdraw a ratification when once given! It is believed that this never became a law. It would seem, however, that the conscience of the House was hard to appease on this matter, for a few weeks later, on July 11th, 1870, we find that body adopting a resolution, on the motion of Mr. Ferriss, declaring that the Fourteenth and Fifteenth Amendments really were valid! See note 140, supra.

162 The suggestion of this condition for these three States seems to have been first made by General B. F. Butler (see *New York Tribune*, January 15th, 1869), and to have been put into effect by a resolution of Senator Oliver P. Morton, on April 9th, 1869. See copy in McPherson's History of Reconstruction, pp. 409-410.

claimed to believe. These, together with the six other States which actually rejected it, make sixteen States that most certainly opposed the amendment. Of the remaining twenty-one States, whose apparent ratification was largely obtained by methods such as we have seen, it is reasonably certain that (except in Iowa and in possibly five of the New England States), the people were uniformly hostile to negro suffrage—even in the excepted States it is doubtful if they would have favored it, had their local negro population been sufficient to make it more than an academic question.

When all these facts are considered, one may well question whether the popular will was executed or thwarted when negro suffrage was written into the fundamental law of this nation.